

(19,637.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

No. 182.

THE TERRITORY OF NEW MEXICO, APPELLANT,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY
COMPANY, THE RIO GRANDE, MEXICO AND PACIFIC
RAILROAD COMPANY, AND THE SILVER CITY, DEMING
AND PACIFIC RAILROAD COMPANY.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF NEW
MEXICO.

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1 Be it Remembered, that heretofore, on the 4th day of December, A. D., 1902, there was filed in the office of the clerk of the Supreme Court of the Territory of New Mexico, a transcript of record, in three certain causes, which said causes were consolidated and entitled, The Atchison, Topeka and Santa Fe Railway Company, Plaintiff in Error, vs. The Territory of New Mexico No. 984; The Rio Grande, Mexico and Pacific Railroad Company, plaintiff in error vs. The Territory of New Mexico defendant in Error, No. 985; and the Silver City Deming and Pacific Railroad Company, Plaintiff in Error vs. The Territory of New Mexico defendant in Error No. 986, which said transcript of record was and is in words and figures, following towit:—

2 IN THE DISTRICT COURT, GRANT COUNTY, TERRITORY OF NEW MEXICO.

Territory of New Mexico,
Plaintiff.

vs.

The Atchison, Topeka and Santa Fe Railway Company.	No. 3425.
The Rio Grande, Mexico and Pacific Railroad Company.	No. 3457.
The Silver City, Deming and Pacific Railroad Company.	No. 3458.

It is hereby stipulated and agreed by and between the parties to the above entitled causes that the Clerk of this Court may make and certify a single record in return to the three writs of error issued from the Supreme Court of the Territory of New Mexico to bring up the said causes for review, and that this stipulation shall be considered as a part of the record herein and shall be incorporated by the Clerk of the District Court in and for the County of Grant and Territory of New Mexico in his transcript of the record thereof.

(Signed) A. H. HARLLEE,
Attorney for Plaintiff.

(Signed) R. E. TWITCHELL,
Attorney for Defendants.

Which was and is endorsed in words and figures as follows, to wit : Nos. 3425, 3457 and 3458.

In the District Court, County of Grant, Territory of New Mexico.
Territory of New Mexico,
Plaintiff.

vs.

The A., T. & S. F. Railway Company,	Defendant.
The R. G., M. & P. Railroad Company,	Defendant.
The S. C., D. & P. Railroad Company,	Defendant.
(Three Cases Consolidated.)	

Stipulation.

Be it remembered, That three Writs of Error issued out of the Supreme Court of the Territory of New Mexico were on the 6th day of December, A. D. 1902, filed in my office, which said writs were and are in words and figures as follows, to-wit:

TERRITORY OF NEW MEXICO.

To the District Court of the 3rd Judicial District of the Territory of New Mexico, sitting within and for the County of Grant. Greeting:

Because in the record and proceedings, and in the rendition of judgment, in a certain cause lately pending before you, wherein The Territory of New Mexico was plaintiff, and The Atchison, Topeka and Santa Fe Railway Company was defendant, error has intervened, as it is said, to the damage of the said The Atchison, Topeka and Santa Fe Railway Company and we being willing that such error, if any there be, should be corrected, and speedy justice done in that behalf, do command you, if judgment therein be given, that then under your seal, distinctly and openly you send a copy of the record and proceedings aforesaid, to the Supreme Court of the Territory of New Mexico, together with this writ, so that you have the same in the said Supreme Court on the first day of the next term thereof, to be begun and held on the first Wednesday after the first Monday in January, A. D. 1903, at Santa Fe, in said Territory, in pursuance of law.

Witness The Honorable William J. Mills, Chief Justice of the Supreme Court of the Territory of New Mexico, and the seal of the said Court, this 4th day of December, A. D. 1902.

(Seal)

(Signed)

J. D. SENA,
Clerk.

Endorsed:

No. 984.

Supreme Court, Territory of New Mexico.
January Term, 1903.

The Atchison, Topeka and Santa Fe Railway Company,
Plaintiff in Error.
Error to 3d Judicial District Court.
Grant County.

Territory of New Mexico,
Defendant in Error.
Writ of Error.

H. L. WALDO,

R. E. TWITCHELL,

Attorneys for Plaintiff in Error.

Filed in my Office, December 6, 1902.

JAMES P. MITCHELL,
Clerk.By J. A. SHIPLEY,
Deputy Clerk.

TERRITORY OF NEW MEXICO.

In the District Court of the 3d Judicial District of the Territory of New Mexico, sitting within and for the County of Grant.
Greeting:

Because in the record and proceedings, and in the rendition of judgment, in a certain cause lately pending before you, wherein The Territory of New Mexico was plaintiff, and Rio Grande, Mexico and Pacific Railroad Company was defendant, error has intervened, as it is said, to the damage of the said Rio Grande, Mexico and Pacific Railroad Company, and we being willing that such error, if any there be, should be corrected, and speedy justice done in that behalf, do command you, if judgment therein be given, that then under your seal, distinctly and openly, you send a copy of the record and proceedings aforesaid, to the Supreme Court of the Territory of New Mexico, together with this writ, so that you have the same in the said Supreme Court on the first day of the next term thereof,
5 to be begun and held on the first Wednesday after the first Monday in January, A. D. 1903, at Santa Fe, in said Territory, in pursuance of law.

Witness The Honorable William J. Mills, Chief Justice of the Supreme Court of the Territory of New Mexico, and the seal of said Court, this 4th day of December, A. D. 1902.

(Seal)

(Signed)

J. D. SENA.

Endorsed:

No. 985.

Supreme Court, Territory of New Mexico,
January Term, 1903.

Rio Grande Mexico and Pacific Railroad Company,
Plaintiff in Error

Error to 3d Judicial District Court,
Grant County.

Territory of New Mexico,

Defendant in Error.

Writ of Error.

H. L. WALDO,

R. E. TWITCHELL,

Attorneys for Plaintiff in Error.

Filed in my Office, December 6, 1902.

JAMES P. MITCHELL,
Clerk.

By J. A. SHIPLEY,
Deputy Clerk.

TERRITORY OF NEW MEXICO.

To the District Court of the 3d Judicial District of the Territory of New Mexico, sitting within and for the County of Grant. Greeting:

Because in the record and proceedings, and in the rendition of judgment, in a certain cause lately pending before you, wherein
 The Territory of New Mexico was plaintiff, and Silver City,
 6 Deming and Pacific Railroad Company was defendant, error has intervened, as it is said, to the damage of the said

and we being willing that such error, if any there be, should be corrected, and speedy justice done in that behalf, do command you, if judgment therein be given, that then under your seal, distinctly and openly, you send a copy of the record and proceedings aforesaid, to the Supreme Court of the Territory of New Mexico, together with this writ, so that you have the same in the said Supreme Court on the first day of the next term thereof, to be begun and held on the first Wednesday after the first Monday in January, A. D. 1903, at Santa Fe, in said Territory, in pursuance of law.

Witness the Honorable William J. Mills, Chief Justice of the Supreme Court of the Territory of New Mexico, and the seal of said Court, this 4th day of December, A. D. 1898.

(Seal)

(Signed)

J. D. SENA,
 Clerk.

Endorsed:

No. 986.

Supreme Court, Territory of New Mexico.

January Term, 1903.

Silver City, Deming and Pacific R. R. Co.,

Plaintiff in Error.

Error to 3d Judicial District Court,

Grant County.

Territory of New Mexico,

Defendant in Error.

Writ of Error.

H. L. WALDO,

R. E. TWITCHELL,

Attorneys for Plaintiff in Error.

Filed in my Office, December 6, 1902.

JAMES P. MITCHELL,

Clerk.

By J. A. SHIPLEY,

Deputy Clerk.

7 IN THE DISTRICT COURT OF THE THIRD JUDICIAL
DISTRICT OF THE TERRITORY OF
NEW MEXICO.

(Numbers Consolidated.)

Territory of New Mexico, Plaintiff,

vs.

The Atchison, Topeka and Santa Fe
Railway Company.

No. 3425.

The Rio Grande, Mexico and Pacific
Railroad Company.

No. 3457.

The Silver City, Deming and Pacific
Railroad Company,
Defendants.

TRANSCRIPT OF RECORD.

Error to Grant County.

Territory of New Mexico,
County of Grant.

Be it remembered that heretofore, to-wit: On the 31st day of October, A. D. 1898; on the 22d day of March, A. D. 1899 and on the 22d day of March, A. D. 1899, there were filed in the office of the Clerk of the District Court for the County of Grant, three complaints, which complaints were in words and figures following, to-wit:

Territory of New Mexico,)
County of Grant.) ss.

In the District Court of the 3d Judicial District of the Territory of New Mexico, sitting in and for the County of Grant, for the trial of causes arising under the laws of said Territory.

8 *To the Honorable Frank W. Parker, Associate Justice of the Supreme Court of the Territory of New Mexico and Judge of the 3d Judicial District Court thereof:*

The Territory of New Mexico, by Thomas S. Heslin, her District Attorney, within and for the said County of Grant, and Arthur H. Harllee, her Special Attorney for the prosecution of this suit within said County, complains of the Atchison, Topeka and Santa Fe Railway Company, a corporation organized according to law, and doing business in the Territory of New Mexico and County of Grant, and says:—

That heretofore, to-wit, on the 8th day of November, 1895, taxes were legally levied and assessed against the Atchison, Topeka and Santa Fe Railroad Company, a corporation then doing business in said Grant County, New Mexico, for the various Territorial, County and School purposes, and also for the payment of a certain judgment rendered in this Court against the Board of County Commissioners of the County of Grant in respect of a certain contract indebtedness of said County of Grant; said taxes amounting in the aggregate to the sum of Ten Thousand, six hundred and sixty-one and 88-100 dollars (\$10,661.88) that the said taxes were levied and assessed in respect of the following property situate, lying and being within said County of Grant at, and prior to the time of such levy and assessment, and then and there subject to taxation under the laws of said Territory, to-wit: the road beds, rights-of-way, franchises, rolling stock, telegraph lines, station houses, the main tracks and side-tracks of the Silver City, Deming and Pacific Railroad Company, and the Rio Grande, Mexico and Pacific Railroad Company, Corporations, situate within the limits of said County of Grant, Territory of New Mexico, and of all other property, of whatever kind, character and description, of said last two named Companies, situate and being within the limits of said County and Territory, as returned and listed for assessment in said County, prior to the said levy and assessment thereof, by the said Atchison,

9 Topeka and Santa Fe Railroad Company, lessee of said property; that the said Atchison, Topeka and Santa Fe Railroad Company as such lessee of said property, by reason of said levy and assessment of said taxes, became and was liable for the payment of said taxes so listed and assessed against it; the said Atchison, Topeka and Santa Fe Railroad Company, as aforesaid; that upon the reorganization of the said Atchison, Topeka and Santa Fe Railroad Company, to-wit, on the 12th day of December, in the year 1895, the said defendant, the Atchison, Topeka and Santa Fe Railway Company, became the successor of the said Atchison, Topeka and Santa Fe Railroad Company, and as such successor acquired all of the property whereon the said taxes were assessed, together with all other property, rights and franchises of the said Atchison, Topeka and Santa Fe Railroad Company, and as such successor became and is liable for the payment of the said taxes so levied and assessed against the said Atchison, Topeka and Santa Fe Railroad Company as aforesaid; that the said defendant, being so liable as aforesaid, has paid of the said taxes, the sum of Eight Thousand, Nine Hundred and Four and 96-100 Dollars, (\$8,904.96), leaving a balance still due and unpaid, of Seventeen Hundred and Fifty-six and 92-100 Dollars (\$1,756.92), which said sum the said Atchison, Topeka and Santa Fe Railroad Company and the said defendant have wholly failed and refused to pay; that of said last mentioned sum, one-half thereof became due and payable on the first day of January, 1896; and the other half thereof on the first day of July, 1896; that by force of the statute, in such case made and provided, the said taxes, so due

and unpaid, bore interest from the said times of payment thereof, at the rate of twenty-five per centum per annum.

Wherefore, by reason of the premises, an action hath accrued to the plaintiff to demand, have and receive, of, and from the defendant, the said sum of Seventeen Hundred and Fifty-six and 92-100 Dollars, together with interest on one-half of said sum, to-wit, the sum of Eight Hundred and Seventy-eight and 46-100 Dollars from the first day of January, 1896, and interest on the other half of said sum to-wit, the sum of Eight Hundred and Seventy-eight and 46-100 Dollars from the first day of July, 1896, at the rate of twenty-five per centum per annum; for all of which the plaintiff prays judgment against the defendant.

2. And whereas, also, heretofore, to-wit: on the 5th day of October in the year 1896, taxes were legally levied and assessed against the said defendant, the Atchison, Topeka and Santa Fe Railway Company, a corporation organized according to law and doing business in the Territory of New Mexico and County of Grant, for the various Territorial, County and School purposes, and also for the payment of certain judgments rendered in this Court against the Board of County Commissioners of said County of Grant, in respect to certain simple contract indebtedness of said County, said taxes amounting in the aggregate to the sum of Eleven Thousand and Fifty-six and 89-100 Dollars (\$11,056.89); that the said taxes were levied and assessed in respect of the following property situate, lying and being within said County of Grant, at and prior to the time of such levy and assessment, and then and there subject to taxation under the laws of said Territory, to-wit: the road-beds, rights-of-ways, franchises, rolling stock, telegraph lines, the main tracks and side tracks of the Silver City, Deming and Pacific Railroad Company, and of the Rio Grande, Mexico and Pacific Railroad Company, Corporations, situate within the limits of said County of Grant, Territory of New Mexico, and all other property of whatever kind, character and description, of said last two named Companies, situate and being within the limits of said County and Territory, as returned and listed for assessment in said County, prior to said levy and assessment thereof, by the said defendant, lessee of said property; that the said defendant, as such lessee of said property, by reason of said levy and assessment of said taxes, became, was and is liable for the payments of said taxes, so levied and assessed against it, as aforesaid; that the said defendant, being so liable as aforesaid, has paid of said taxes the sum of Nine Thousand, One Hundred and Thirty-Nine and 6-100 Dollars (\$9,139.06), leaving a balance, still due and unpaid, of Nineteen Hundred and Seventeen and 83-100 Dollars (\$1,917.83), which said sum the said defendant has wholly failed and refused to pay; that of said last mentioned sum, one-half thereof became due and payable on the first day of January, 1897; and the other half thereof, on the first day of July, 1897; that by force of the statute in such case made and provided, the said taxes,

so due and unpaid, bore interest from the said times of payment thereof at the rate of twenty-five per centum per annum.

11 Wherefore, by reason of the premises, an action hath accrued to the plaintiff to demand, have and received of, and from the defendant the said sum of Nineteen Hundred and Seventeen and 83-100 Dollars, together with interest on one-half of said sum, to-wit, the sum of Nine Hundred and Fifty-eight and 91-100 Dollars, from the first day of January, 1897, and interest on the other half of said sum, to-wit, the sum of Nine Hundred and Fifty-eight and 91-100 Dollars from the first day of July, 1897, at the rate of twenty-five per centum per annum; for all of which the plaintiff prays judgment against the defendant.

3. And whereas, also, heretofore, to-wit: on the 7th day of September, in the year 1897, taxes were legally levied and assessed against the said defendant, the Atchison, Topeka and Sante Fe Railway Company, a corporation organized according to law, and doing business in the Territory of New Mexico, and County of Grant, for the various Territorial, County and School purposes, and also for the payment for the certain judgments rendered in this Court against the Board of County Commissioners of the said County of Grant, in respect to certain simple contract indebtedness of said County, said taxes amounting in the aggregate to the sum of Fourteen Thousand, Eight Hundred and Eighty-nine (\$14,889.00) Dollars; that the said taxes were levied and assessed in respect to the following

12 property situate, lying and being in said County of Grant, at and prior to the time of such levy and assessment and then and there subject to taxation under the laws of said Territory, to-wit: the roadbed, rights-of-way, franchises, rolling stock, telegraph lines, the main tracks and side tracks of the Silver City, Deming and Pacific Railroad Company and of the Rio Grande, Mexico and Pacific Railroad Company, Corporations, situate within the limits of said County of Grant, Territory of New Mexico, and all other property of whatever kind, character and description, of said last two named Companies, situate and being within the limits of said County and Territory, as returned and listed for assessment in said County, prior to said levy and assessment thereof, by the said defendant, lessee of said property, by reason of said levy and assessment of said taxes, became, was and is liable for the payment of said taxes, so levied and assessed against it, as aforesaid; that the said defendant, being so liable as aforesaid, has paid of said taxes the sum of Nine Thousand, Nine Hundred and Seven and 26-100 Dollars (\$9,907.26), leaving a balance, still due and unpaid, of Four Thousand, Nine Hundred and Eighty-one and 74-100 Dollars (\$4,981.74); which said sum the said defendant has wholly failed and refused to pay; that of said last mentioned sum one-half thereof became due and payable on the first day of January, and the other half thereof on the first day of July, 1898; that by force of the statute, in such case made and provided, the said taxes, still due and unpaid, bore interest

from said times of payment thereof at the rate of twenty-five per centum per annum.

Wherefore, by reason of the premises, an action hath accrued to the plaintiff to demand, have and receive of, and from the defendant, the said sum of four thousand, nine hundred and eighty-one and 74-100 dollars, together with interest on one-half of said sum to-wit, the sum of two thousand, four hundred and ninety and 87-100

13 Dollars, from the first day of January, 1898, and interest on the other half of said sum, to-wit, the sum of two thousand, four hundred and ninety and 87-100 Dollars, from the first day of July, 1898, at the rate of twenty-five per centum per annum; for all of which plaintiff prays judgment against the defendant, together with the costs of this action.

THOS. S. HEFLIN,

District Attorney in and for the County of Grant,
Third Judicial District, Territory of New Mex.

ARTHUR H. HARLEE,
Special Attorney for Plaintiff.

Address: Silver City, N. M.

Said Complaint is endorsed as follows, to-wit:

No. 3425.

In Third Judicial District Court, Grant County.
Territory of New Mexico

vs.

Atchison, Topeka and Santa Fe Railway Company.

Complaint—Original.

THOS. S. HEFLIN,

Dist. Atty. in and for Grant County, N. M.

ARTHUR H. HARLEE,
Silver City, N. M.

Attorneys for Plaintiff.

Filed in my Office, October 31, 1898.

J. P. MITCHELL, Clerk.

By J. A. SHIPLEY, Deputy.

Territory of New Mexico,) ss.
County of Santa Fe.

In the District Court of the Third Judicial District of the Territory of New Mexico, within and for the County of Grant.

14 *To the Honorable Frank W. Parker, Associate Justice of the Supreme Court of the Territory of New Mexico, and Presiding Judge of the 3d Judicial District Court thereof:*

The Territory of New Mexico, Plaintiff, by Thomas S. Heflin, her District Attorney, within and for said County of Grant, and Arthur
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H. Harlee, her Special Attorney for the prosecution of this suit, within said County, complains of the Rio Grande, Mexico and Pacific Railroad Company, a corporation organized according to law, and doing business in the Territory of New Mexico and County of Grant, Defendant, and says:

1. That heretofore, to-wit, on the eighth day of November, A. D. 1895, taxes were legally levied and assessed in said County of Grant against the said defendant, the Rio Grande, Mexico and Pacific Railroad Company, a corporation then doing business in said Grant County, New Mexico, for the various Territorial, County and School purposes, and also for the payment of a certain judgment rendered in this Court against the Board of County Commissioners of the said County of Grant, in respect of a certain contract indebtedness of said County of Grant; that said taxes amounted in the aggregate to the sum of Two Thousand, Eight Hundred and Fifty-four and 88-100 Dollars; that said taxes were levied and assessed in respect of the following property, situate, lying and being within said County of Grant, at, and prior to the time of such levy and assessment, and then and there subject to taxation under the laws of said Territory, to-wit: the road beds, rights-of-way, franchises, rolling stock, telegraph lines, station houses, the main tracks and side tracks of said corporation, defendant, situate within the limits of said County of Grant, together with all other property of whatever kind, character and description, of the said defendant, situate and being within the limits of said County and Territory; that by reason of said levy and assessment, the defendant became and is liable for the payment of said taxes so levied and assessed against it as aforesaid; that of said taxes so levied and assessed against the said defendant as aforesaid;

the said defendant has paid the sum of Two Thousand Two Hundred and Seventy-three and 97-100 Dollars, leaving a balance still due and unpaid of Five Hundred and Eighty and 91-100 dollars, which said sum the said defendant has heretofore wholly failed and refused to pay, and still refuses to pay; that of said last mentioned sum, one-half thereof became due and payable on the first day of January, 1896; and the other half thereof on the first day of July, 1896; that by force of the statute in such case made and provided, the said taxes, so due and unpaid, bore interest from the said time of payment thereof at the rate of twenty-five per centum per annum.

Wherefore, by reason of the premises, an action hath accrued to the plaintiff, the said Territory of New Mexico, to demand, have and receive, of, and from the said defendant the said sum of Five Hundred and Eighty and 91-100 Dollars, together with interest upon one-half of said sum, to-wit, the sum of Two Hundred and Ninety and 45-100 Dollars from the first day of January, 1896, and interest on the other half of said sum, to-wit, the sum of Two Hundred and Ninety and 45-100 Dollars from the first day of July, 1896, at the rate of twenty-five per centum per annum; for all of which plaintiff prays judgment against the defendant.

2. And whereas, heretofore, to-wit, On the fifth day of October, 1896, taxes were legally levied and assessed, in said County of Grant, against the said defendant, the Rio Grande, Mexico and Pacific Railroad Company, for the various Territorial, County and School purposes, and also for the payment of certain judgments rendered in this Court against the Board of County of Commissioners in respect of certain simple contract indebtedness of said County of Grant; that said taxes amounted in the aggregate to the sum of Two Thousand, Seven Hundred and Ninety-five and 74-100 Dollars; that the said taxes were levied and assessed in respect of the following property, situate, lying and being in said County of Grant, at and prior to the time of such levy and assessment, and then and there subject to taxation under the laws of said Territory, to-wit: the road beds,

16 rights-of-way, franchises, rolling stock, telegraph lines, the main tracks and side tracks, of said defendant Company, together with all other property of whatever kind, character and description, of the said defendant, situate and being within the limits of said County and Territory; that by reason of said levy and assessment the said defendant became and is liable for the payment of said taxes so levied and assessed against the said defendant as aforesaid; that — the said taxes so levied and assessed against the said defendant as aforesaid, the said defendant has paid the sum of Two Thousand, Three Hundred and Thirty-eight and 26-100 Dollars, leaving a balance still due and unpaid of Four Hundred and Fifty-seven and 48-100 Dollars, which said sum the said defendant has hitherto wholly failed and refused to pay and still refuses so to pay; that of said last mentioned sum one-half thereof became due and payable on the first day of January, 1897; and the other half thereof on the first day of July, 1897; that by the force of the statute in such case made and provided, the said taxes, so due and unpaid, bore interest from the said times of payment thereof, at the rate of twenty-five per centum per annum.

Wherefore, by reason of the premises, an action hath accrued to the said plaintiff, the Territory of New Mexico, to demand, have and receive of, and from the said defendant, the said sum of Four Hundred and Fifty-seven and 48-100 Dollars, together with interest upon one-half of said sum, to-wit, the sum of Two Hundred and Twenty-eight and 74-100 Dollars from the first day of January, 1897; and interest on the other half of said sum, to-wit, the sum of Two Hundred and Twenty-eight and 74-100 Dollars, from the first day of July, 1897, at the rate of twenty-five per centum per annum; for all of which the plaintiff prays judgment against the defendant.

3. And whereas also, heretofore, to-wit, on the seventh day of September, 1897, taxes were legally levied and assessed in said Grant County, against the said defendant, the Rio Grande, Mexico and Pacific Railroad Company, for the various Territorial, County and School purposes, and also for the payment of certain judgments rendered in this Court against the Board of County Commissioners of the said County of Grant, in respect to

certain contract indebtedness of said Grant County, said taxes amounting in the aggregate to the sum of Three Thousand, Eight Hundred and Twenty-nine and 10-100 Dollars; that said taxes were levied and assessed in respect of the following property, situate, lying and being in said County of Grant, at, and prior to the time of such levy and assessment, and then and there subject to taxation under the laws of said Territory, to-wit:—the road beds, rights of way, franchises, rolling stock, telegraph lines, the main track and side tracks of the said defendant Company, together with all other property of whatever kind, character and description of the said defendant, situate and being within the limits of said County and Territory; that by reason of said levy and assessment the said defendant became and is liable for the payment of said taxes so levied and assessed against said defendant as aforesaid; that of said taxes so levied and assessed against said defendant as aforesaid, the said defendant has paid the sum of Three Thousand, One Hundred and Ninety-three and 06-100 Dollars, leaving a balance still due and unpaid of Six Hundred and Thirty-six and 04-100 Dollars, which said sum the said defendant has hitherto wholly failed and refused to pay and still refuses so to pay; that of said last mentioned sum, one-half thereof became due and payable on the first day of January, 1898; and the other half thereof on the first day of July, 1898; that by force of the statute in such case made and provided, the said taxes still due and unpaid, bore interest from the said times of payment thereof at the rate of twenty-five per centum per annum.

Wherefore, by reason of the premises, an action hath accrued to the plaintiff to demand, have and receive of, and from the said defendant, the said sum of Six Hundred and Thirty-six and 18 04-100 Dollars, together with interest on one-half of said sum, to-wit, the sum of Three Hundred and Eighteen and 02-100 Dollars from the first day of January, 1898; and interest on the other half of said sum, to-wit, the sum of Three Hundred and Eighteen and 02-100 Dollars, from the first day of July, 1898, at the rate of twenty-five per centum per annum; for all of which plaintiff prays judgment against the defendant together with the costs of this action.

THOS. S. HEFLIN,

District Attorney in and for the County of Grant, Third
Judicial District, Territory of New Mexico,

Silver City, N. M.

ARTHUR H. HARILEE,

Special Attorney for Plaintiff.

Silver City, N. M.

Said Complaint is endorsed as follows, to-wit:—

No. 3457.

In Third Judicial District Court, Grant County.

Territory of New Mexico

vs.

The Rio Grande, Mexico and Pacific Railroad Company.

Complaint.

Filed in my office March 22d, 1899.

J. P. MITCHELL, Clerk.

By J. A. SHIPLEY, Deputy.

T. S. Heflin, Attorney and A. H. Harllee, Special Attorney for Plaintiff.

Territory of New Mexico,)

County of Grant,)

ss.

In the District Court of the Third Judicial District of the Territory of New Mexico, within and for the County of Grant.

19 *To the Honorable Frank W. Parker, Associate Justice of the Supreme Court of the Territory of New Mexico and Presiding Judge of the Third Judicial District Court thereof:*

The Territory of New Mexico, plaintiff, by Thomas S. Heflin, her District Attorney, within and for said County of Grant, and Arthur H. Harllee, her Special Attorney for the prosecution of this suit, within said County, complains of the Silver City, Deming and Pacific Railroad Company, a corporation organized according to law, and doing business in the Territory of New Mexico and County of Grant, defendant, and says:—

1. That heretofore, to-wit, on the eighth day of November, A. D. 1895, taxes were legally levied and assessed against the said defendant, the Silver City, Deming and Pacific Railroad Company, a corporation then doing business in said Grant County, New Mexico, for the various Territorial, County and School purposes, and also for the payment of a certain judgment rendered in this Court against the Board of County Commissioners of the said County of Grant, in respect of a certain contract indebtedness of said County of Grant; that said taxes amounted in the aggregate to the sum of Seven Thousand, Eight Hundred and seven Dollars; that said taxes were levied and assessed in respect of the following property, situate, lying and being within said County of Grant, at and prior to the time of such levy and assessment, and then and there subject to taxation under the laws of said Territory, to-wit: the road beds, rights-of-way, franchises, rolling stock, telegraph lines, station houses, the main tracks and side tracks of said corporation, defendant, situate within the limits of said County of Grant, together with all property, of whatever kind, character and description, of the

said defendant, situate and being within the limits of said County and Territory; that by reason of said levy and assessment, the defendant became and is liable for the payment of said taxes so levied and assessed against it as aforesaid; that of said taxes so levied and assessed against the said defendant as aforesaid; the said defendant has paid the sum of Six Thousand Six Hundred and Thirty and 99-100 Dollars, leaving a balance still due and unpaid of Eleven Hundred and Seven six and 01-100 Dollars, which said sum the said defendant has heretofore wholly failed and refused to pay, and still refuses to pay; that of said last mentioned sum, one-half thereof became due and payable on the first day of January, 1896; and the other half thereof on the first day of July, 1896; that by force of the statute in such case made and provided, the said taxes, so due and unpaid, bore interest from the said times of payment thereof at the rate of twenty-five per centum per annum.

Wherefore, by reason of the premises, an action hath accrued to the plaintiff, the said Territory of New Mexico, to demand, have and receive, of and from the said defendant the said sum of Eleven Hundred and Seven Six and 01-100 Dollars, together with the interest upon one-half of said sum, to-wit, the sum of Five Hundred and Eighty-eight Dollars from the first day of January, 1896; and interest on the other half of said sum, to-wit: the sum of Five Hundred and Eighty-eight Dollars from the first day of July, 1896, at the rate of twenty-five per centum per annum; for all of which plaintiff prays judgment against the defendant.

2. And Whereas, heretofore, to-wit, on the Fifth day of October, 1896, taxes were legally levied and assessed against the said defendant, the Silver City, Deming and Pacific Railroad Company, for the various Territorial, County and School purposes, and also for the payment of certain judgments rendered in this Court against the Board of County Commissioners in respect of certain simple contract indebtedness of said County of Grant; that said taxes amounted in the aggregate to the sum of Eight Thousand Two Hundred and Sixty-one and 15-100 Dollars; that the said taxes were levied and assessed in respect of the following property situate, lying and being in said County of Grant, at and prior to the time of such levy and assessment, and then and there subject to taxation, under the laws of said Territory, to-wit, the road beds, rights-of-way, franchises, rolling stock, telegraph lines, the main tracks, and side tracks, of said defendant Company, together with all other property of whatever kind, character and description, of the said defendant, situate, and being within the limits of said County and Territory; that by reason of said levy and assessment the said defendant became and is liable for the payment of said taxes so levied and assessed against it as aforesaid; that of taxes so levied and assessed against the said defendant as aforesaid, the said defendant has paid the sum of Six Thousand Eight Hundred and 80-100 Dollars, leaving a balance still due and unpaid of Fourteen Hundred and Sixty

and 35-100 Dollars, which said sum the said defendant has hitherto wholly failed and refused to pay and still refuses so to pay; that of said last mentioned sum one-half thereof became due and payable on the first day of January, 1897, and the other half thereof on the first day of July, 1897, that by force of the statute in such case made and provided the said taxes, so due and unpaid, bore interest from the said times of payment thereof at the rate of twenty-five per centum per annum.

Wherefore by reason of the premises, an action hath accrued to the said plaintiff the Territory of New Mexico, to demand, have and receive of, and from the said defendant, the said sum of Fourteen Hundred and Sixty and 35-100 Dollars, together with interest upon half of said sum, to-wit, the sum of Seven Hundred and Thirty and 17-100 Dollars from the first day of January, 1897, and interest on the other half of said sum, to-wit, the sum of Seven Hundred and Thirty and 17-100 Dollars, from the first day of July, 1897, at the rate of twenty-five per centum per annum; for all of which the plaintiff prays judgment against the defendant.

3. And whereas also, heretofore, to-wit, on the Seventh day of September, 1897, taxes were legally levied and assessed in said Grant County, against the said defendant, the Silver City, Deming and Pacific Railroad Company for the various Territorial, County and

22 School purposes, and also for the payment of certain judgments rendered in this Court against the Board of County,

Commissioners of the said County of Grant, in respect to certain contract indebtedness of said Grant County, said taxes amounting in the aggregate to the sum of Eleven Thousand and Fifty-nine and 90-100 Dollars; that said taxes were levied and assessed in respect of the following property situate and being in the said County of Grant at and prior to the time of such levy and assessment, and then and there subject to taxation under the laws of said Territory, to-wit: the road beds, rights-of-way, franchises, rolling stock, telegraph lines, the main track and side tracks of said defendant Company, together with all other property of whatever kind, character and description of the said defendant situate and being within the limits of said County and Territory; that by reason of said levy and assessment the said defendant became and is liable for the payment of said taxes so levied and assessed against it as aforesaid; that of said taxes so levied and assessed against said defendant as aforesaid, the said defendant has paid the sum of Six Thousand Seven Hundred and Fourteen and 21-100 Dollars, leaving a balance still due and unpaid of Four Thousand Three Hundred and Forty-five and 71-100 dollars, which said sum the said defendant has hitherto wholly failed and refused to pay and still refuses to so pay; that of said last mentioned sum, one-half thereof became due and payable on the first day of January, 1898; and the other half thereof on the first day of July, 1898; that by force of the statute in such case made and provided, the said taxes still due and unpaid, bore interest

from the said times of payment thereof at the rate of twenty-five per cent per annum.

Wherefore by reason of the premises an action hath accrued to the plaintiff to demand, have and receive of, and from the said defendant, the said sum of Four Thousand Three Hundred and Forty-five and 70-100 Dollars, together with interest on one-half of said sum, to-wit, the sum of Two Thousand One Hundred and Seventy-

two and 85-100 Dollars, from the first day of January, 1898, and interest on the other half of said sum, to-wit, the sum of Two Thousand One Hundred and Seventy-two and 85-100 Dollars from the first day of July, 1898, at the rate of twenty-five per centum per annum; for all of which plaintiff prays judgment against the defendant, together with the costs of this action.

THOS. S. HEFLIN,
District Attorney in and for the County of Grant,
Third Judicial District, Territory of New Mexico,
Silver City, N. M.
ARTHUR H. HARLEE,
Special Attorney for Plaintiff,
Silver City, N. M.

Said Complaint is endorsed as follows, to-wit:

No. 3458.

In the Third Judicial District Court, Grant County,
Territory of New Mexico,

vs.

The Silver City, Deming and Pacific Railroad Company.

Complaint.

Filed in my office March 22nd, 1899.

J. P. MITCHELL, Clerk.

By J. A. Shipley, Deputy.

T. S. Heflin, Attorney and A. H. Harlee, Special Attorney for Plaintiff.

And Be it Further Remembered, That on said thirty-first day of October, A. D. 1898, there was issued from the office of the Clerk of said Court, a Summons, which said summons is in words and figures as follows, to-wit:

SUMMONS.

In the District Court of the Third Judicial District of the Territory of New Mexico, in and for the County of Grant.

24 Territory of New Mexico,
 Plaintiff,
No. 3425 vs. Civil.
Atchison, Topeka and Santa Fe
 Railway Company,
 Defendant.

The Territory of New Mexico.

To the Atchison, Topeka and Santa Fe Railway Company, Greeting:

You are hereby commanded to be and appear before the District Court of the Third Judicial District of the Territory of New Mexico, in and for the County of Grant, that being the county in which the complaint herein is filed, within twenty days after the service of this summons upon you, if you are served in any county within this Judicial District embracing the counties of Grant, Dona Ana, and Sierra; otherwise within thirty days after service; then and there to answer the complaint filed herein. And you are hereby notified that unless you so appear and answer, the plaintiff will apply to the court for the relief demanded in the complaint.

Witness the Hon. Frank W. Parker, Associate Justice of the Supreme Court of the Territory of New Mexico, and Presiding Judge of the Third Judicial District Court thereof, and the seal of said District Court at Silver City, New Mexico, this 31st day of October, A. D. 1898.

(Seal)

J. P. MITCHELL,
Clerk.

By J. A. SHIPLEY,
Deputy.

(Endorsed.)

25 This is an action brought by the Territory of New Mexico, plaintiff, against the Atchison, Topeka and Santa Fe Railway Company, for the recovery of taxes assessed against defendant in the County of Grant, in the years 1895, 1896, and 1897, and alleged to be due and delinquent as follows, to-wit: for the year 1895, the sum of \$1,756.92; for the year 1896, the sum of \$1,917.83; and for the year 1897, the sum of \$4,981.74; for all of which plaintiff asks for judgment, together with interest on said sums, respect-

ively, from the periods of delinquency thereof, at the rate of 25 per cent per annum, and costs of suit.

(Seal)

J. P. MITCHELL,
Clerk.

By J. A. SHIPLEY,
Deputy.

Said summons is endorsed as follows, to-wit:

No. 3425.

TERRITORY OF NEW MEXICO.

Third Judicial District Court, County of Grant.

Territory of New Mexico,

vs.

Atchison, Topeka and Santa Fe Railway Company.

SUMMONS.

Original.

Thos. S. Hetlin and Arthur H. Harlee,
Silver City, N. M.

Attorneys for Plaintiff.

And Be It Further Remembered, that afterwards, to-wit, on the 21st day of November, 1898, there was filed in the office of the Clerk of said Court, the original of said summons, to which is attached the return of the Sheriff, said return being in words and figures as follows, to-wit:

Territory of New Mexico,)	
	) ss.	No. 3425.
County of Grant.)	

I, William G. McAfee, Sheriff of Grant County, New Mexico, do hereby certify that I received the within writ on the 31st day of October, A. D. 1898, and that I served the same, together with a copy of the complaint filed in said cause, on the 31st day of October, A. D. 1898, at Silver City, N. M., by then and there delivering to H. M. Stecker, Agent of the Atchison, Topeka and Santa Fe Railway Company a true copy of the within writ and a copy of the complaint filed in said cause.

Service	\$1.00
Return	50

\$1.50

W. G. McAFEE,
Sheriff of Grant County, N. M.

And Be It Further Remembered, that afterwards, to-wit, on the 22nd day of November, 1898, there was filed in the office of the Clerk of said Court, a Motion for Judgment, which said motions is in words and figures as follows, to-wit:

In the District Court of the Third Judicial District of the Territory of New Mexico, within and for the County of Grant.

Territory of New Mexico,
Plaintiff.

vs.

No. 3425.

Atchison, Topeka and Santa Fe
Railway Company,
Defendant.

Comes now the said plaintiff, the Territory of New Mexico, by Thomas S. Hefflin, her District Attorney, and Arthur H. Harllee, Special Attorney for plaintiff herein, and move the Court for judgment against defendant as prayed for in the complaint herein upon the ground that said defendant has failed to appear and plead to complaint herein within the time required by law.

THOMAS S. HEFLIN,
District Attorney,
ARTHUR H. HARLLEE,
Attorneys for Plaintiff.

27 Said motion for Judgment is endorsed as follows, to-wit:
No. 3425.

Territory of New Mexico

vs.

A. T. & S. F. Railway Co.

Motion for Judgment.

Filed in my office November 22nd, 1898.

JAMES P. MITCHELL, Clerk.

THOS. S. HEFLIN,

District Attorney.

A. H. HARLLEE,

Attorneys for Plaintiff.

And Be It Further Remembered, that afterwards, to-wit, at a regular term of said Court, begun and held within the said County of Grant, at the Court House in said County on the 21st day of November, 1898, and on the third day of said term, the same being the 23d day of November, 1898, the following among other proceedings were had and entered of record, to-wit:

Territory of New Mexico,)	
vs.)	
Atchison, Topeka and Santa Fe R. R. Co.	)	Civil. 3425.

This cause coming on to be heard on this day upon the motion for judgment by default heretofore filed herein by plaintiff, and the Court having heard said motion and the arguments of counsel and being fully advised in the premises, doth overrule the same.

It is therefore ordered by the Court that plaintiff's motion for judgment by default herein be and the same is hereby overruled.

And now upon application, leave is granted the said defendant to file its answer herein as of November 21st, 1898, which is accordingly done.

And Be It Further Remembered, that afterwards, to-wit, as 28 of the 21st day of November, 1898, there was filed in the office of the Clerk of said Court, an Answer, which said Answer is in words and figures as follows, to-wit:—

In the District Court, County of Grant, Territory of New Mexico.

Territory of New Mexico,
Plaintiff.

vs.

Number 3425.

The Atchison, Topeka and Santa Fe
Railway Company,
Defendant.

ANSWER.

Now comes the said The Atchison, Topeka and Santa Fe Railway Company, Defendant in the above entitled cause by R. E. Twitchell, Esquire, its attorney, and for answer to the complaint of the plaintiff, the Territory of New Mexico, says:—

It denies that on the 8th day of November, 1895, taxes were legally levied and assessed against the Atchison, Topeka and Santa Fe Railroad Company for the various Territorial, County and School purposes and as well for the payment of a certain judgment rendered in the above entitled Court against the Board of County Commissioners of the County of Grant in respect of a certain contract indebtedness of said county; said taxes amounting in the aggregate to the sum of Ten Thousand, Six Hundred and Sixty-one and 88-100 Dollars; and denies that the said taxes were levied and assessed in respect of the following property, situate, lying and being within said County of Grant at and prior to the time of such levy and assessment, and denies that the same was then and there subject to taxation under the laws of said Territory, to-wit, as follows: the road beds, rights of way, franchises, rolling stock, telegraph lines, station houses, the main tracks and side tracks of the Silver City, Deming

29 and Pacific Railroad Company, and the Rio Grande, Mexico and Pacific Railroad Company, situate within the limits of the said County of Grant, and of all other property, of whatever kind, character and description, of said last mentioned companies, situate and being within the limits of said County and Territory, and denies that the same or any part thereof was returned and listed for assessment in said County, prior to the said alleged and pretended levy and assessment by the said defendant as lessee of said property, and denies that the said defendant by reason of any such pretended levy and assessment became and was liable for the payment of said taxes so alleged to have been listed and assessed against it; and further denies that upon any such pretended levy and assessment became and was liable for the payment of said taxes so alleged to have been listed and assessed against it; and further denies that upon any re-organization of the said Atchison, Topeka and Santa Fe Railroad Company, on the 12th day of December, 1895, or at any other day or date, this defendant became the successor of the said Atchison, Topeka and Santa Fe Railroad Company and as such acquired all of the property whereon the said taxes were alleged and pretended to have been assessed together with all of the property rights and franchises of the said Atchison, Topeka and Santa Fe Railroad Company, and denies that as such alleged successor this defendant became and is liable for the payment of the said alleged and pretended taxes so alleged and pretended to have been levied and assessed against the said Atchison, Topeka and Santa Fe Railroad Company.

And this defendant further denies that it has paid of the said pretended taxes any sum whatever or that there is due and owing from this defendant on account of said alleged and pretended levy and assessment to the said plaintiff any sum whatever, whether on account of the said pretended taxes or interest thereon.

30 And the said defendant further denies that on the 5th day of October, 1896, taxes were legally levied and assessed against this defendant, for the various Territorial, County and School purposes, as well as also for the payment of certain judgments rendered in the above entitled Court against the Board of County Commissioners of the County of Grant in respect to certain simple contract indebtedness of said County and denies that said taxes amounted in the aggregate to the sum of Eleven Thousand and fifty-six and 89-100 dollars, or any other amount and denies that the said alleged and pretended taxes were levied and assessed in respect of the following property situate, lying and being within the County of Grant and Territory of New Mexico, at, and prior to the time of such alleged and pretended levy and assessment and then and there subject to taxation under the laws of the Territory of New Mexico, to-wit: the road beds, rights of way, franchises, rolling stock, telegraph lines, the main tracks and side tracks of the Silver City, Deming and Pacific Railroad Company and the Rio Grande, Mexico and Pacific Railroad Company, and all other property of

whatever kind, character and description of the said last named companies situate within the limits of said County and Territory, and denies that the same or any part thereof was returned and listed for assessment by the said defendant as lessee of said property and denies that the said defendant by reason of any such pretended levy and assessment became liable for the payment of said taxes so alleged to have been listed, levied and assessed against it.

And this defendant denies that there is due and owing from it to the Territory of New Mexico, the plaintiff herein, for and on account of said pretended and alleged assessment and levy for said year, the sum of One Thousand Nine Hundred and Seventeen Dollars and Eighty-three Cents, or any other sum, and denies that of the said alleged taxes, to-wit, One Thousand Nine Hundred and Seventeen and 83-100 Dollars, one-half thereof became due and payable on the first day of January, 1897, and the other half thereof on the first day of July, 1897, or that the same or any part thereof are due and unpaid. And further denies that the said alleged and pretended taxes bore interest from the said alleged times of payment thereof at the rate of twenty-five per cent per annum and denies that any interest in any amount on any account is due, owing and unpaid to the plaintiff herein.

And the said defendant further denies that on the 7th day of September, 1897, taxes were legally levied and assessed against it for the various Territorial, County and School purposes, as well as also for the payment of the certain judgments rendered in the above entitled Court against the Board of County Commissioners of the said County of Grant in respect to certain simple contract indebtedness of said County, said alleged and pretended taxes amounting in the aggregate to the sum of Fourteen Thousand Eight Hundred and Eighty-nine Dollars, and denies that the said pretended taxes were levied and assessed in respect to the following property situate, lying and being in said County of Grant, at and prior to the time of such pretended assessment and levy and then and there subject to taxation under the laws of this Territory, to-wit: the road beds, rights of way, franchises, rolling stock, telegraph lines, the main tracks and side tracks of the Silver City, Deming and Pacific Railroad Company and of the Rio Grande, Mexico and Pacific Railroad Company and all other property of whatever kind, character and description of said last mentioned companies, situate, lying and being within the limits of said County and Territory, and denies that the same were returned and listed for assessment in said County prior to said alleged and pretended assessment and levy by this defendant as lessee thereof; and denies that this defendant as such alleged lessee, by reason of said alleged and pretended assessment became, was and is liable for the payment of said taxes so pretended to have been levied and assessed against it.

And this defendant denies that there is due, owing and unpaid to the plaintiff herein for and on account of said pretended levy and assessment for said year, the sum of Four Thousand Nine Hundred

and Eighty-one and 74-100 Dollars, or any other sum whatever
and further denies that of said last mentioned sum one-half
32 thereof became due and payable on the first day of January,
1898, and the other half thereof on the first day of July,
1898, or at any other time, and denies that the same or any part
thereof is due, owing and unpaid; and further denies that the said
alleged and pretended taxes bore interest from the said alleged times
of payment thereof at the rate of twenty-five per cent. per annum
and denies that any interest in any amount, on any account, is due,
owing and unpaid to the plaintiff herein.

And the said defendant further denies that it is the lessee of the
said Silver City, Deming and Pacific Railroad Company, or is the
lessee of the said Rio Grande, Mexico and Pacific Railroad Company,
and denies that as such alleged and pretended lessee it is liable for
the alleged and pretended taxes and interest so as aforesaid attempted
and pretended to be charged against it.

And the said defendant, having fully answered the said complaint,
prays to be hence dismissed with its costs.

R. E. TWITCHELL,
Attorney for Defendant.
East Las Vegas, N. M.

Said Answer is endorsed as follows, to-wit:

No. 3425.

In the District Court, County of Grant, New Mexico.
Territory of New Mexico,
Plaintiff.

vs.

A. T. & S. F. Railway Company,
Defendant.
Answer.

Received November 20, 1898.

Filed in my office November 21, 1898.

JAMES P. MITCHELL,
Clerk.

R. E. TWITCHELL,
East Las Vegas, N. M.,
Attorney for Defendant.

33 And Be It Further Remembered, that afterwards, to-wit, at
a regular term of said Court, begun and held within the said
County of Grant, at the Court House in said County, on the 3rd day
of April, 1899, and on the first day of said term, the same being the
3rd day of April, 1899, the following among other proceedings were
had and entered of record, to-wit:

Territory of New Mexico,)	
Plaintiff.)	
vs.	)	No. 3425. Civil.
Atchison, Topeka and Santa Fe)	
Railway Company, Defendant.)	

Come now the parties hereto by Messrs. Barnes & Harllee and R. E. Twitchell, Esq., their respective attorneys, and waive a trial by jury herein and consent to submit this cause to the Court for trial.

Territory of New Mexico,)	
Plaintiff.)	
vs.	)	No. 3457. Civil
The Atchison, Topeka and Santa)	
Fe Railway Company, Defendant.)	

Comes now the plaintiff herein by T. S. Heflin, Esq., and A. H. Harllee, Esq., her attorneys, and comes the said defendant by R. E. Twitchell, Esq., its attorney, and waive trial by jury herein and consent to submit this cause to the Court for trial.

Territory of New Mexico,)	
Plaintiff.)	
vs.	)	No. 3458. Civil.
The Atchison, Topeka & Santa Fe)	
Railway Company, Defendant.)	

Now comes the plaintiff herein by T. S. Heflin, Esq., and 34 A. H. Harllee, Esq., her attorneys, and comes the said defendant by R. E. Twitchell, Esq., its attorney, and waive a trial by jury herein and consent to submit this cause to the Court for trial.

And be it further remembered, that afterwards, to-wit, at said regular term of Court aforesaid, and on the 4th day of April, 1899, the same being the second day of said term, the following among other proceedings were had and entered of record, to-wit:

Territory of New Mexico,)	
Plaintiff.)	
vs.	)	No. 3425. Civil.
Atchison Topeka and Santa Fe Railway)	
Company,	)	Defendant,

Comes now the plaintiff herein by R. P. Barnes, Esq., her attorney, and comes the said defendant by R. E. Twitchell, Esq., its attorney, and waive a trial by jury herein and consent to submit this cause to the Court for trial to find and determine the issues herein.

And now upon application of said defendant, by its said attorney and by consent of said plaintiff, the said defendant is granted leave

by the court to amend its answer heretofore filed herein by interlineation, for the purpose of correcting clerical errors therein.

And be it further remembered, that afterwards, to-wit, on the 4th day of April, 1899, there was filed in the office of the Clerk of said Court, two Answers, which said Answers are in words and figures as follows, to-wit:

In the District Court, Grant County, Territory of New Mexico.

Territory of New Mexico, Plaintiff,	}	
vs.	}	
The Rio Grande, Mexico and Pacific Railroad	}	No. 3457.
Company,	}	
Defendant.	}	

35

ANSWER.

Now comes said The Rio Grande, Mexico and Pacific Railroad Company, defendant in the above entitled cause, by R. E. Twitchell, Esq., its attorney, and for answer to the complaint of plaintiff, the Territory of New Mexico, says:

It denies that heretofore, to-wit, on the 8th day of November, A. D. 1895, taxes were legally levied and assessed in the said County of Grant against the said defendant for the various Territorial, County and School purposes as well also for the payment of a certain judgment rendered in this Court against the Board of County Commissioners of the said County of Grant in respect to a certain contract indebtedness of said county of Grant; said taxes amounting in the aggregate to the sum of Two Thousand, Eight Hundred, Fifty-Four and 88-100 Dollars (\$2,854.88); and

Denies that said taxes were levied and assessed in respect to the following property situate, lying and being within the said County of Grant at and prior to the time of said levy and assessment; and

Denies that the same were then and there subject to taxation under the laws of said Territory, to-wit: The road beds, rights-of-way, franchises, rolling stock, telegraph lines, station houses, main tracks and side tracks of this defendant situate within the limits of the said county of Grant, together with all other property of whatever kind, character and description belonging to this defendant situate and being within the limits of said County of Grant and Territory of New Mexico; and

Denies that the same or any part thereof was returned and listed for assessment in said County prior to the said alleged and pretended assessment; and

Denies that this defendant by reason of such pretended levy and assessment became and was liable for the payment of said taxes so alleged to have been listed and assessed against it.

36

This defendant further denies that it has paid of the said pretended tax any sum whatever, or that there is due and

owing from this defendant on account of such alleged and pretended assessment to the said plaintiff any sum whatever, whether on account of the said pretended tax or interest thereon.

This defendant further denies that on the 5th day of October, A. D. 1896, taxes were legally levied and assessed against this defendant for the various Territorial, County and School purposes as well as also for the payment of certain judgments rendered in the above entitled Court against the Board of County Commissioners of the County of Grant in respect to certain simple contract indebtedness of said County; and

Denies that said taxes amounted in the aggregate to the sum of (\$2,795.74) Two Thousand, Seven Hundred, Ninety-Five and 74-100 Dollars, or any other sum, and

Denies that the said alleged and pretended taxes were levied and assessed in respect to the following property situate and lying within the County of Grant and Territory of New Mexico at and prior to the time of such alleged and pretended levy and assessment, and then and there subject to taxation under the laws of the Territory of New Mexico, to-wit: The roadbeds, rights-of-way, franchises, rolling stock, telegraph lines, the main tracks and sidetracks of this defendant, together with all other property of whatever kind, character and description belonging to this defendant situate and being within the limits of said County and Territory; and

Denies that the same or any part thereof was returned and listed for assessment in said County prior to the said alleged and pretended assessment by the said defendant; and

Denies that the said defendant by reason of any such pretended levy and assessment became and was liable for the payment of said tax so pretended to have been listed and assessed against it.

This defendant further denies that there is due and owing
37 from it to the Territory of New Mexico, the plaintiff herein, for and on account of said pretended assessment and levy for said year the sum of Four Hundred and Fifty-Seven and 48-100 Dollars (\$457.48); and

Denies that of the said alleged taxes, to-wit: Four Hundred and Fifty-Seven and 48-100 Dollars (\$457.48) one-half thereof, became due and payable on the first day of January, 1897, and the other half thereof on the first day of July, 1897, or that the same or any part thereof are due and unpaid.

This defendant further denies that the said alleged and pretended tax bore interest from the said alleged payment thereof at the rate of 25 per cent per annum; and

Denies that any interest in any amount on any account is due, owing and unpaid to the plaintiff herein.

And the said defendant further denies that on the 7th day of September, A. D. 1897, taxes were legally assessed and levied against it for the various Territorial, County and School purposes as well also for the payment of the certain judgments rendered in the above entitled Court against the Board of County Commissioners of the said

County of Grant in respect to certain simple contract indebtedness of said County, said pretended and alleged tax amounting in the aggregate to the sum of Three Thousand, Eight Hundred Twenty and 10-100 Dollars (3,820.10); and

Denies that the said pretended taxes were levied and assessed in respect to the following property situate, lying and being in said County of Grant at and prior to the time of such pretended assessment and levy, and then and there subject to taxation under the laws of this Territory, to-wit: The road-beds, rights-of-way, franchises, rolling stock, telegraph lines, main and side tracks of this defendant, together with all other property of whatever kind, character and description situate and being within the limits of said County and Territory.

38 And this defendant further denies that the same was returned and listed for assessment by this defendant in said County prior to said alleged and pretended assessment and levy; and

Denies that this defendant by reason of said alleged and pretended assessment became and was and is liable for the payment of said taxes so pretended and alleged to have been assessed against it.

And this defendant denies that there is due, owing and unpaid to the plaintiff herein, for and on account of the pretended assessment and levy herein the sum of Six Hundred, Thirty-Six and 4-100 Dollars (\$636.04) or any other sum whatever; and

Further denies of said last mentioned sum (\$636.04), one-half thereof became due and payable on the first day of January, A. D. 1898, and the other one-half thereof on the first day of July, A. D. 1898, or at any other time; and

Denies that the same or any part thereof is due, owing and unpaid; and

Denies that the said alleged and pretended taxes bore interest from the said alleged time of payment thereof at the rate of 25 per cent per annum; and

Denies that any sum, taxes or interest, in any amount on any account is due, owing and unpaid to the plaintiff herein by this defendant.

And this defendant having fully answered the said complaint, prays to be hence dismissed with its costs.

R. E. TWITCHELL,
Attorney for Defendant.

Said answer is endorsed as follows:

No. 3457.

District Court, Grant County.

Territory of New Mexico,

vs.

The R. G. M. and P. Rd. Co.

ANSWER.

Filed in my office April 4th, 1899.

JAS. P. MITCHELL, Clerk.

By H. B. HOLT, Deputy.

39

R. E. TWITCHELL,

Las Vegas, N. M.,

Attorney for Defendant.

In the District Court, Grant County, Territory of New Mexico.

Territory of New Mexico, Plaintiff,)

vs.)

The Silver City, Deming and Pacific) No.

Railroad Company,)

Defendant.)

ANSWER.

Now comes said Silver City, Deming and Pacific Railroad Company, defendant in the above entitled cause, by R. E. Twitchell, Esq., its attorney, and for answer to the complaint of plaintiff, the Territory of New Mexico, says:

It denies that heretofore, to-wit: On the 8th day of November, A. D. 1895, taxes were legally levied and assessed in the said County of Grant against the said defendant for the various Territorial, County and School purposes as well also for the payment of a certain judgment rendered in this Court against the Board of County Commissioners of the said County of Grant in respect to a certain contract indebtedness of said County of Grant; said taxes amounting in the aggregate to the sum of Seven Thousand, Eight Hundred, Seven Dollars; and

Denies that said taxes were levied and assessed in respect to the following property, situate, lying and being within the said County of Grant at and prior to the time of such levy and assessment; and

Denies that the same were then and there subject to taxation under the laws of said Territory, to-wit: The road-beds, rights-of-way, franchises, rolling stock, telegraph lines, station houses, main tracks and side tracks of this defendant situate within the limits of
40 said County of Grant, together with all other property of whatever kind, character and description belonging to this defendant situate and being within the limits of the said County of Grant and Territory of New Mexico; and

Denies that the same or any part thereof was returned and listed for assessment in said County prior to the said alleged and pretended assessment; and

Denies that this defendant by reason of such pretended levy and assessment became and was liable for the payment of said taxes so alleged to have been listed and assessed against it.

This defendant further denies that it has paid of the said pretended tax any sum whatever; or that there is due and owing from this defendant on account of such alleged and pretended assessment to the said plaintiff any sum whatever, whether on account of the said pretended tax or interest thereon.

This defendant further denies that on the 5th day of October, A. D. 1896, taxes were legally levied and assessed against this defendant for the various Territorial, County and School purposes as well as also for the payment of certain judgments rendered in the above entitled Court against the Board of County Commissioners of the County of Grant in respect to certain simple contract indebtedness of said County; and

Denies that said taxes amounted in the aggregate to the sum of (\$8,261.15) Eight Thousand, Two Hundred Sixty-One and fifteen hundredths Dollars, or any other sum, and

Denies that the said alleged and pretended taxes were levied and assessed in respect to the following property situate and lying within the County of Grant and Territory of New Mexico at and prior to the time of such alleged and pretended levy and assessment, and then and there subject to taxation under the laws of the Territory of New Mexico, to-wit: The road-beds, rights-of-way, franchises, rolling stock, telegraph lines, the main tracks and side tracks of this defendant, together with all other property of what-
41 ever kind, character and description situate and being within the limits of said County and Territory; and

Denies that the same or any part thereof was returned and listed for assessment in said County prior to the said alleged and pretended assessment by the said defendant; and

Denies that the said defendant by reason of any such pretended levy and assessment became and was liable for the payment of said tax so pretended to have been listed and assessed against it.

This defendant further denies that there is due and owing from it to the Territory of New Mexico, the plaintiff herein, for and on account of said pretended assessment and levy for said year the sum of One Thousand, Four Hundred and Sixty and 35-100 Dollars (\$1,460.35); and

Denies that of the said alleged taxes, to-wit: One Thousand, Four Hundred and Sixty and 35-100 Dollars (\$1,460.35) one-half thereof, became due and payable on the first day of January, 1897, and the other half thereof on the first day of July, 1897, or that the same or any part thereof are due and unpaid.

This defendant further denies that the said alleged and pretended

tax bore interest from the said alleged payment thereof at the rate of 25 per cent per annum; and

Denies that any interest in any amount on any account is due, owing and unpaid to the plaintiff herein.

And the said defendant further denies that on the 7th day of September, A. D. 1897, taxes were legally assessed and levied against it for the various Territorial, County and School purposes as well also for the payment of the certain judgments rendered in the above entitled Court against the Board of County Commissioners of the said county of Grant in respect to certain simple contract indebtedness of said County, said pretended and alleged tax amounting in the aggregate to the sum of Eleven Thousand, Fifty-Nine and 90-100 Dollars (11,059.90); and

42 Denies that the said pretended taxes were levied and assessed in respect to the following property situate, lying and being in the said County of Grant at and prior to the time of such pretended assessment and levy, and then and there subject to taxation under the laws of this Territory, to-wit: The road-beds, rights-of-way, franchises, rolling stock, telegraph lines, main and side tracks of this defendant, together with all other property of whatever kind, character and description situate and being within the limits of said County and Territory.

And this defendant further denies that the same was returned and listed for assessment by this defendant in said County prior to said alleged and pretended assessment and levy; and

Denies that this defendant by reason of said alleged and pretended assessment became, was and is liable for the payment of said taxes so pretended and alleged to have been assessed against it.

And this defendant denies that there is due, owing and unpaid to the plaintiff herein, for and on account of the pretended assessment and levy herein the sum of Four Thousand, Three Hundred, Forty-Five and 70-100 Dollars (\$4,345.70) or any other sum whatever; and

Further denies of said last mentioned sum \$4,345.70, one-half thereof became due and payable on the first day of January, A. D. 1898, and the other one-half thereof on the first day of July, A. D. 1898, or at any other time; and

Denies that the same or any part thereof is due, owing and unpaid; and

Denies that the said alleged and pretended taxes bore interest from the said alleged time of payment thereof at the rate of 25 per cent. per annum; and

Denies that any sum, taxes or interest, in any amount on any account is due, owing and unpaid to the plaintiff herein by this defendant.

And this defendant having fully answered the said complaint, prays hence to be dismissed with its costs.

R. E. TWITCHELL,
Attorney for Defendant.

Said answer is endorsed as follows, to-wit:

43 No. 3458.

District Court, Grant County.

Territory of New Mexico,

vs.

Silver City, Deming and Pacific Railroad Company.

ANSWER.

Filed in my office April 4th, 1899.

JAS. P. MITCHELL, Clerk.

By H. B. HOLT, Deputy.

R. E. TWITCHELL,

of Las Vegas, N. M.

Attorney for Defendant.

And be it further remembered, That afterwards, to-wit: At a regular term of said Court begun and held within said County of Grant, at the Court House in said County on the 5th day of March, 1900, and on the Third day of said term the same being the 7th day of March, 1900, the following among other proceedings were had and entered of record, to-wit:

Territory of New Mexico,

vs.

The Atchison, Topeka and Santa Fe
R. R. Co.

} 3425. Civil.
}

Come now the parties hereto by their respective attorneys, and the trial of this cause is set for Monday of the third week of the present term of this court.

And be it remembered, that afterwards, to-wit: At a regular term of said Court begun and held within said County of Grant, at the Court House in said County on the third day of September, 1900, and on the Fourth day of said term the same being the 6th day of September, 1900, the following among other proceedings were had and entered of record, to-wit:

44 Territory of New Mexico,

vs.

The Atchison, Topeka and Santa Fe R. R. Co.

} 3425. Civil.
}

Come now the parties hereto by their respective attorneys, and by consent, it is ordered by the Court that the trial of this cause be, and the same is hereby, set for Wednesday of the Fourth week of the present term of this Court.

Territory of New Mexico,	}	3457. Civil.
vs.		
The Rio Grande, Mexico and Pacific Railroad Com- pany.		

Come now the parties hereto by their respective attorneys, and upon their application it is ordered by the Court that this cause be, and the same is hereby, set for trial on Wednesday of the Fourth week of the present term of this Court.

Territory of New Mexico,	}	3458. Civil.
vs.		
The Silver City, Deming and Pacific Railroad Com- pany.		

Come now the parties hereto by their respective attorneys, and upon their motion it is ordered by the Court that the trial of this cause be, and the same is hereby, set for Wednesday of the Fourth week of the present term of this Court.

And be it further remembered, that afterwards, to-wit: On the first day of May, 1901, there was filed in the office of the Clerk of said Court, an Agreed Statement of Facts, which said Agreed Statement of Facts is in words and figures as follows, to-wit:

45 *In the District Court, Third Judicial District, County of Grant, Territory of New Mexico:*

Grant, Territory of New Mexico.

Territory of New Mexico, Plaintiff.	}	Numbers 3425, 3457, 3458.
Versus.		
The A., T. and S. F. Railway Company, The R. G., M. and P. Railroad Company and The S. C. D. and P. Railroad Company, Defendants.		

AGREED STATEMENT OF FACTS.

I.

Within the time required by law, for the years 1895, 1896 and 1897, respectively, all the property of the above named defendants, as well as all the property of the Atchison, Topeka and Santa Fe Railroad Company, situate in the County of Grant and Territory of New Mexico, on the first day of March in each of the said years 1895, 1896 and 1897, was, by the proper representatives of said companies duly listed and returned to the proper assessing officers of the said county of Grant for the purposes of taxation for said years, respectively, copies of which said returns, so made as aforesaid, are hereto

attached, marked Exhibits "A", "B" and "C" and made a part of this statement.

II.

The Board of County Commissioners in and for the said County of Grant, sitting as a Board of Equalization, according to law, at the times required by law, in and during the years 1895, 1896 and 1897, raised the return of the said defendants and the said Atchison, Topeka and Santa Fe Railroad Company, so made as aforesaid, as by the record of the proceedings of said Board of County Commissioners, in and for the said years 1895, 1896 and 1897, more fully appears, which said record is hereto attached marked Exhibit "D" and made a part hereof.

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III.

That within the time required by law, an appeal from the action of the Board of County Commissioners was taken in and during the said years 1895, 1896 and 1897, respectively, by said defendants and each of them and the Atchison, Topeka and Santa Fe Railroad Company, to the Territorial Board of Equalization, which said last named Board, after argument and due consideration of said appeals for the said years respectively, did act thereon and sustain said appeals, as will more fully appear from the certified copy of the proceedings of the said Territorial Board of Equalization, held during said years relative to appeals and fixing the valuation upon all railroad property in the Territory of New Mexico for said years, which said certified copy is hereto attached, marked Exhibit "E" and made a part hereof.

IV.

That the Board of County Commissioners and the several assessing officers of the County of Grant were duly notified of the said action of the Territorial Board of Equalization upon the several appeals of the said defendants and the said Atchison, Topeka and Santa Fe Railroad Company.

V.

Within the time required by law, in and during the years 1895, 1896, and 1897, the said Board of County Commissioners made the annual levy upon all property in the said County of Grant, including the property of the said defendants and the Atchison, Topeka and Santa Fe Railroad Company, for the purpose of taxation for each of said years respectively which said assessment and levy for the year 1895 is in the words and figures following, To-wit:

"Territory of New Mexico, County of Grant.
Office of the Board of County Commissioners.

At a regular session held on the eighth day of November, A. D. 1895.

47 It is ordered by the Board of County Commissioners of said County: That the preceding assessment roll and each and every assessment therein contained, as originally returned and assessed, or as shown thereon to have been revised and corrected by the Board, be and the same is hereby approved.

And that a tax of 6 05-100 mills on the dollar for county purposes and of two and one-half mills on the dollar for school purposes and of 3 20-100 mills on the dollar for court fund and 3 50-100 mills for judgment A. B. Laird, and for various Territorial funds, to-wit:

For Territorial Purposes, 6 mills on the dollar.

For Territorial Institutions Fund, 1 75-100 mills on the dollar.

For Cattle Indemnity Fund, 50-100 mills on the dollar. is hereby levied upon all the property therein returned assessed liable to taxation.

In Witness Whereof

Attest:

E. M. YOUNG,
Probate Clerk.

(SEAL)

THOMAS FOSTER,
Chairman of the Board.
A. J. CLARK,
J. N. UPTON,
Commissioners.

And which levy for the year 1896, as appears by the record of the proceedings of said Board of its session held on the 5th day of October, 1896, is in words and figures following, to-wit:

"Territory of New Mexico, County of Grant.
Office of the Board of County Commissioners.

At a regular session held on the 5th day of October, A. D. 1896—
It is ordered by the Board of County Commissioners of said County: That the preceding assessment roll and each and every assessment therein contained, as originally returned and assessed, or as shown thereon to have been revised and corrected by the Board, be and the same hereby is approved:

48 And that a tax of 6 55-100 mills on the dollar for county purposes and of two and one-half mills on the dollar for school purposes, 4 50-100 mills on the dollar for judgments, 3 mills on the dollar for special school Precinct No. 11, 3 mills on the dollar for special school Precinct No. 24 and 3 20-100 mills on the dollar for court fund, and 8 25-100 mills for various Territorial Funds, to-wit:

For Territorial Purposes, 6 mills on the dollar.

For Territorial Institutions Fund, 1 75-100 mills on the dollar.

For Cattle Indemnity Fund, 50-100 mills on the dollar is hereby

levied upon all property therein returned assessed liable to taxation.
In Witness Whereof

Attest:

E. M. YOUNG,
Probate Clerk.
(SEAL)

THOMAS FOSTER,
Chairman of the Board.
J. N. UPTON,
A. J. CLARK,
Commissioners.

And which levy for the year 1897, as appears by the record of the proceedings of said Board of its session held on the 7th day of September, A. D. 1897, is in the words and figures following, to-wit:

Territory of New Mexico, County of Grant,
Office of the Board of County Commissioners.

At a regular session held on the 7th day of September, A. D. 1897—It is ordered by the Board of County Commissioners of said County:—That the preceding assessment roll and each and every assessment therein contained, as originally returned and assessed, or as shown thereon to have been revised and corrected by the Board, be and the same is hereby approved.

And that a tax of 16 and 50-100 mills on the dollar for county purposes and 2 and 1-2 mills on the dollar for school purposes and of 3 and 20-100 mills on the dollar for court fund and 12 and 30-100 mills for various Territorial funds, to-wit:

Sheep and goat sanitary, 1 50-100 mills per head.

49 For Territorial purposes, 7 mills on the dollar.

For Territorial institutions, 2 50-100 mills on the dollar.

For special tax for the 49th fiscal year, 1 1-4 mills on the dollar.

For cattle indemnity fund, 50-100 mills on the dollar.

For capital contingent sinking fund, 1-2 mill on dollar.

And a further special tax of 1 mill on the dollar of the appraised value of all cattle.

For the support of the public schools a levy is made by me in conformity with "An Act to establish public schools in the Territory of New Mexico, approved Feb. 12, 1891, of 2 50-100 of one mill on the dollar upon all taxable property in the Territory, to be collected and paid into the different county treasuries as provided by law.

In witness whereof:—

A. J. CLARK,
Chairman of the Board.
MARTIN MAHER,
H. J. HICKS,
Commissioners.

Attest: E. M. YOUNG, Probate Clerk, etc.

6.

That the only assessment against the property of the said defendants, or that of the Atchison, Topeka and Santa Fe Railroad Com-

pany, or any or either of them, appearing upon the Assessment Roll or Tax Roll or List of the County of Grant, in and for the years 1895, 1896 and 1897, respectively, is in the words and figures, as follows, to-wit:

Name of Property Owner—Atchison, Topeka & Santa Fe R. R.

Description Real Estate—Roadbed, track, right-of-way, rolling stock, etc.

Total Value Land and Improvements—

R. G., M. & P.

10.98 miles main line.....	
6.91 miles siding.....	\$16,175 00
6 miles telegraph.....	5,549 00

50 S. C., D. & P.

48.29 miles main line.....	313,885 00	
1.67 miles sidings.....	3,340 00	
48.29 miles telegraph.....	1,207 00	
Value of personal property.....	16,555 00	
Fixed by County Commissioners.....	435,070 00	
Tank and windmill.....	400 00	690 00
Depot, etc., Hudson.....	325 00	
Depot, etc., Whitewater.....	300 00	
Ice house, etc.,.....	250 00	550 00
Dwelling, etc., Silver City.....	250 00	
Tool house.....	40 00	
Engine Ho. T. Tab. & coal bins.....	900 00	
Depot, etc.,.....	600 00	
Hose Hs. & water tank.....	310 00	2,100 00
Stock yards.....	250 00	
Tank and windmill, stock yards.....	400 00	650 00
Value of personal property.....	249, 21, 6, 14, 55	
Fixed by assessor.....		\$426,185 25
Fixed by Territorial Board of Equalization.....		426,185 25
Territorial purposes.....	\$2,557 11	
Territorial institutions.....	745 82	
School.....	1,065 47	
General.....	1,065 47	
Court fund.....	1,363 79	
Judgment.....	1,917 83	
Interest on bonds, 1889.....	1,278 56	
Interest on bonds, 1883.....	149 16	
Contingent expenses.....	213 09	
Road.....	42 62	
Bounty.....	42 62	
Special school.....	615 35	
Total.....		\$11,056 89

Amount due January 1, 1897.....	\$5,528 45
Amount due January 1, 1897.....	5,528 44
Amount paid January 1, 1897, less judg- ment fund tax.....	4,569 53
51 Amount paid July 1, 1897, less judgment tax.....	4,569 53

1897.

Name of Property Owner—Atchison, Topeka and Santa Fe Railroad Company.

Real Estate—Rio Grande, Mexico & Pacific, Silver City, Deming & Pacific.

Description—Same as that found in return.

Valuation fixed by County Commissioners.....	\$432,021 45
Territorial Purposes.....	3024.1502
Territorial Institutions.....	885.6440
Special Tax.....	540.0268
Capitol Contingent Sinking Fund.....	216.0107
School.....	1080.0536
General.....	1728.0858
Court Fund.....	1382.4686
Judgment.....	1944.0965
Interest on Bonds 1883.....	172.8086
Interest on Bonds 1889.....	172.8086
Interest on Bonds 1889.....	1123.2558
Roads.....	216.0107
Special School.....	632.2926

Total.....14889.0004

Amount due January 1st, 1898.....7444.5002

Amount due July 1st, 1898.....7444.5002

January 1st, 1898. Payment of \$4,953.64 on valuation
329331.45 as returned by said company less county
judgments.July 1st, 1898. Payment of \$4,953.64 on valuation
as returned by said Company 329,331.45 less County
judgments.

Final Assessed Value.....Pd. \$423,061 00 \$435,070 00

Territorial Tax—

Territorial Purposes.....	\$2,610 42
Territorial Institutions.....	761 37
52 School	1,087 68

County Tax—

General	1,087 68
Court Fund.....	1,392 22
Judgment	1,522 75
Interest—Bonds	1,087 68
Interest—Bonds	152 27
C. E.	27 54

R.	43 50	
Special School Precinct 3.	20 00	
Special School Precinct 11.	635 27	
Amount due Jan. 1st, 1896.		5,330 94
Amount due July 1st, 1896.		5,330 94

Total Tax.	10,661 88
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Amount Paid on Valuation as Returned by Defendants
and Sustained by the Territorial Board of Equalization:—

January 1, 1896.	4,452 48
July 1, 1896.	4,452 00
1896.	

Name of Property Owner: Atchison, Topeka and Santa Fe Railroad
Company.

Real Estate.	Value of Land.	Total Value Land and Im- provements.
Rio Grande, Mexico and Pacific.	\$71,370 00	
10.98 miles main track at \$6,500.		
7.10 miles side track at \$2,500.	17,750 00	
6 miles telegraph line.	549 00	89,669 00
Silver City, Deming and Pacific		
48.29 miles main track at \$6,500.	313,885 00	
2.14 miles side track at \$2,500.	5,350 00	
48.29 miles telegraph line.	1,177 25	320,442 25
Rio Grande, Mexico & Pacific		
Car repair shops, Deming.	25 00	
Section house, etc.	400 00	
Tool house	40 00	
53 Depot and hotel, 1-2 interest in..	3,750 00	
Freight depot, etc.	1,250 00	
Track scales	100 00	
Baggage room	150 00	
Tenements, Nos. 6 to 10, Whitney.	600 00	
Coal chutes and bins	700 00	
Ice house	150 00	
Pump house	40 00	
Car repair shop	75 00	
Tank	300 00	
Tool house	40 00	
Master mechanic's office.	125 00	
Stock yards	300 00	
Stone engine house	1,800 00	
Turn table and oil house.	400 00	4,530 00
Tool house, section house, etc.,		
Crawford	290 00	

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That within the time required by law, prior to the attaching of any penalty, the said defendants and the said Atchison, Topeka and Santa Fe Railroad Company paid to the Collector of Grant County, upon the valuation returned by said Companies all taxes levied and assessed against said companies or any or either of them, in and by the levy of the Board of County Commissioners made on the 8th day of November, A. D. 1895, to-wit: the sum of \$8,904.96, except the sum of \$1,522.75, which said last named sum was a tax levied for and on account of a certain judgment against the Board of County Commissioners of the County of Grant and in favor of one, A. B. Laird, for the payment of which said judgment, the said Board of County Commissioners did, at the time of the making of the regular annual levy on the 8th day of November, 1895, make a special levy of three and one-half mills upon all the taxable property in said County and as contained in the assessment roll of said County, approved November 8, 1895.

And the amount in dispute between the plaintiff and said
54 defendants and the said Atchison, Topeka and Santa Fe Railroad Company, for the said year 1895 is the sum of \$1,480.-
71, levied on account of a judgment against said County of Grant, rendered in favor of Andrew B. Laird, on the return valuation made by the defendants, and the sum of \$276.21, total taxation on the valuation of \$12,011.00, the amount of raise in valuation made by the said Board of County Commissioners on the property described in Schedules 2 and 3 of the property returns of the defendants for the year 1895.

8.

That the said judgment against the Board of County Commissioners of the County of Grant, in favor of the said A. B. Laird, was rendered by the District Court in and for the Third Judicial District within and for the said County of Grant, and was for and on account of certain claims, allowances and approved accounts belonging to the said A. B. Laird, against the said County of Grant, and were due him for services rendered, supplies furnished and materials supplied to the said County of Grant in and during years prior to the date of the filing of the suit in which the said judgment was rendered, all of which said claims, allowances and approved accounts were a part of a current general expense of the said County of Grant during the years in which the same were ordered and incurred, and this, the said judgment and the claims and allowances did not arise upon nor include any charge against the said County of Grant for or on account of any bonded debt of said County nor upon any coupon of any bond theretofore issued by the said County of Grant, nor for any interest upon said bond or coupon, but said judgment was simply and solely rendered for and on account of claims, allowances and approved accounts of claims due and owing said A. B. Laird for services rendered or supplies and materials furnished by him to the said

County of Grant in and during a period prior to the filing of the suit in which the said judgment was rendered.

9.

55 That within the time required by law and prior to the attaching of any penalty, the said defendants and the said Atchison, Topeka and Santa Fe Railroad Company, paid to the Collector of the County of Grant, upon a valuation of the property of said Companies as fixed by the Territorial Board of Equalization, to-wit: a valuation of \$426,185.25, all taxes levied and assessed against said Companies or any or either of them in and by the levy of the Board of County Commissioners made on the 5th day of October, 1896, to-wit: the sum of \$9,139.06, except the sum of \$1,917.83, which said last named sum was a tax levied for and on account of and for the payment of certain judgments against the Board of County Commissioners of the County of Grant and in favor of certain judgment creditors of the said County of Grant, for the payment of which said judgments the Board of County Commissioners did, at the time of the making of the regular annual levy on the 5th day of October, A. D. 1896, make a special levy of four and one-half mills upon all the taxable property in said County and as contained in the assessment roll of said County, approved October 5, 1896.

10.

That the said judgments against the Board of County Commissioners of the County of Grant, and each of them, in favor of the said judgment creditors, were rendered by the District Court in and for the Third Judicial District sitting within and for the County of Grant, and were each for and on account of certain claims, allowances and approved accounts, the property of the said creditors, against the said County of Grant, and were claims, allowances and approved accounts theretofore made and issued to various people by the said Board of County Commissioners for and on account of services rendered and supplies and materials furnished to the said County of Grant, in and during certain years prior to the date of the filing of the suits in which the said judgments
56 were rendered, all of which said claims, allowances, approved accounts and judgments were a part of the current general expense of the said County of Grant during the years in which the same were ordered and incurred and that the said judgments, nor any or either of them, did not arise upon nor include any charge against the said County of Grant for or on account of any bonded debt of the said County nor upon any coupon of any bond theretofore issued by the said County of Grant nor for any interest upon said bond or coupon, but the said judgments were simply and solely rendered for and upon account of claims, allowances and approved accounts due and owing to the said creditors for services rendered or supplies or materials furnished to the said County of

Grant in and during a period prior to the filing of the suits in which the said judgments were rendered.

11.

That within the time required by law and prior to the attaching of any penalty, the said defendants paid to the Collector of the County of Grant upon the valuation returned by said Companies—a valuation of \$329,331.45—all taxes levied and assessed against said Companies, or any or either of them, in and by the levy of the Board of County Commissioners made on the 7th day of September, 1897, to-wit:—the sum of \$9,907.28, except the sum of \$1,944.0965, which said last named sum was a tax levied upon an assessment made by the Board of County Commissioners of said County in the sum of \$432,021.45, for and on account of and for the payment of certain judgments against the Board of County Commissioners of the County of Grant and in favor of certain judgment creditors of said County for the payment of which said judgments the Board of County Commissioners did, at the time, of the making of the regular annual levy, on the 7th day of September, 1897, and included in the levy for County purposes, which latter was sixteen and one-half mills upon the dollar, make a levy upon all the taxable property in said County, and as contained in the assessment roll of said
57 County, approved September 7, 1897.

And that the amount in dispute between the plaintiff and defendants and the said Atchison, Topeka and Santa Fe Railroad Company, is the sum of \$1,481.96, levied on account of the aforesaid judgments on the valuation of property paid on by the defendants, and the sum of \$3,283.14, total taxation on the valuation \$96,580.00, the amount of raise by said Board of County Commissioners in the valuation of the property described in Schedule No. 1 of defendants' property return for the said year, and the sum of \$216.64, total taxation on the valuation \$6,110.00, the amount of raise by the said Board of County Commissioners in the valuation on the property described in Schedules Nos. 2 and 3 of defendants' property return for said year.

12.

That the said judgments against the Board of County Commissioners of the County of Grant, and each of them, in favor of the said judgment creditors, were rendered by the District Court in and for the Third Judicial District, sitting within and for the County of Grant, and were each for and on account of certain claims, allowances and approved accounts against the said County of Grant, and were claims, allowances and approved accounts theretofore made and issued to various people by the said Board of County Commissioners for and on account of services rendered and supplies and materials furnished to the said County of Grant in and during certain years prior to the date of the filing of the suits in which the said judgments

were rendered, all of which said claims, allowances, approved accounts and judgments were a part of the current general expense of the said County of Grant during the years in which the same were ordered and incurred and that the said judgments, nor any or either of them, did not arise upon nor include any charge against the County of Grant for or on account of any bonded debt of the said county nor upon any coupons of any bond theretofore
 58 issued by the said County, nor for any interest upon said bond or coupon, but the said judgments were simply and solely rendered for and on account of claims, allowances and approved accounts due and owing the said creditors by the said County for services rendered or supplies and materials furnished to the said County of Grant in and during a period prior to the filing of the suits in which the said judgments were rendered.

13.

That each and every act of said Territorial Board of Equalization, with reference to the valuation of the property of said defendants, as shown by the said Exhibit "E" was made pursuant to the provisions of an act of the Legislative Assembly of the Territory of New Mexico entitled "An Act Providing for a Board of Equalization and prescribing its duties, approved February 23, 1893, and the several acts amendatory thereto and supplemental thereto.

14.

That at the meeting of the Board of County Commissioners of the said County of Grant, sitting as a Board of Equalization, held on the _____ day of _____, A. D. 1897, the said Board of County Commissioners raised the return of the said defendants from a total valuation of \$329,331.45 to a total valuation of \$432,321.45, a part of which raise in valuation consisted in a raise of \$2,000 per mile for 48.29 miles of track of the said defendants: to-wit—the Silver City, Deming and Pacific Railroad, or a total raise upon track of \$96,580.00 and upon superstructures, buildings, etc., 1-8 of \$6,110.00.

That within the time required by law an appeal was taken and allowed from the aforementioned action of the said Board of County Commissioners of the County of Grant in making said raise, by the said defendants to the Territorial Board of Equalization, by which body said appeal was duly sustained and allowed and the valuation
 59 fixed at the valuations returned by the said defendants for the said year, as appears from the order of the said Board of Equalization of the Territory, found in Exhibit "E" hereto attached, and which order is as follows, viz:

Santa Fe, N. M., September 20, 1897.

"In the matter of the appeal of the A., T. & S. F. R. R. from Grant County, New Mexico, said appeal was continued to the January meeting of this Board, on account of the inability of the District Attorney

for said County to attend such meeting, who desired to be heard in the case."

Santa Fe, New Mexico, January 10, 1898.

Afternoon Session, 2 P. M.

"The Board met pursuant to adjournment, all members present as this morning.

"In the matter of the appeal of the Silver City, Deming and Pacific Railroad of Grant County, New Mexico, which was continued from the September meeting of 1897, after receiving the opinion of the Solicitor General of New Mexico and carefully considering all evidence presented to the said Board, the Board sustains the appeal of the A., T. & S. F. R. R. and places the value of said branch line (the same having been shown by proof brought before this Board, the same is a branch line and shall be classified as such) and the Board instructs the Assessor of said County to correct his tax roll in accordance with such finding."

15.

That the levy made by the Board of County Commissioners of Grant County for the year 1895 for general county purposes was 6 05-100 mills exclusive of the levy of 3 and 50-100 mills for the payment of the judgment of A. B. Laird.

That the levy made by the Board of County Commissioners of Grant County for the year 1896 for general county purposes was 6 55-100 mills, exclusive of the levy of 4 and 50-100 mills for the payment of judgments.

60 That the levy of the Board of County Commissioners of Grant County for the year 1897 for general county purposes was 16 50-100 mills inclusive of the levy for the payment of judgments.

16.

That the assessment and tax rolls of the County of Grant for the years 1895, 1896 and 1897, containing the assessments and taxes levied against the property of the defendants and the Atchison, Topeka and Santa Fe Railroad Company, as appears herein, were and are the assessment and tax rolls of said County for said years, made out by the assessor, approved by the Board of County Commissioners and delivered to and received by the Collector of taxes of the said County in and for said mentioned years 1895, 1896 and 1897.

17.

That the total property valuation, as shown by the assessment rolls of the said County of Grant for the year 1892 is the sum of \$4,222,113.00.

That the amount of the levy for the general fund, at the rate of 2 1-2 mills is the sum of \$10,555.28, which said last named sum, together with the sum of \$1,790.16, levied as a special deficit fund in the year 1894 to cover the unpaid indebtedness of said County

of Grant for the year 1893, formed the general fund applicable to the payment of county expenses for the year 1893.

That of said fund there was collected in said year 1893, for the payment of county expenses, the sum of \$7,793.79, leaving a deficit of \$4,551.65 uncollected in the general fund in the year 1893.

That the total property valuation, as shown by the assessment rolls for the said County of Grant for the year 1893 in the sum of \$4,129,467.00.

That the amount of levy for the general fund, at the rate of 2 1-2 mills, is the sum of \$10,323.66, which said last named sum together with the sum of \$1,724.59, levied in the year 1895 as a special

61 deficit to cover the indebtedness unpaid in the year 1894, formed a general fund applicable to the payment of county expenses for the year 1894, a total amount applicable to such indebtedness of \$12,113.82, of which sum there was duly collected in the year 1894, from general fund, and in the year 1896, from the special deficit fund aforesaid, the sum of \$8,328.75, leaving a deficit of \$3,719.50 uncollected in the general fund in year 1894.

That the total property valuation, as shown by the assessment rolls of 1894 for the said County of Grant is the sum of \$3,580,232.00.

That the amount of levy for the general fund, at the rate of 2 1-2 mills is the sum of \$8,950.58, which said last named sum together with the sum of \$1,607.25, levied in the year 1895 as a special deficit to cover the indebtedness unpaid in the year 1894, formed a general fund applicable to the payment of county expenses for the year 1895, of which sum there was collected in the year 1895 from the general fund and in the year 1897, in the special deficit fund aforesaid, the sum of \$7,122.07, leaving a deficit of \$3,495.76 uncollected in the general fund in the year 1895.

That the total property valuation as shown by the assessment rolls of said County of Grant for the year 1895 is the sum of \$3,449,180.00.

That the amount of levy for the general fund, at the rate of 2 1-2 mills, is the sum of \$8,622.95.

That there was no special deficit fund levied in said County of Grant for the said year, and that the said sum of \$8,622.95 formed the general fund applicable to the payment of county expenses for the year 1896.

That of said fund there was collected in the said year 1896 the sum of \$6,285.46, leaving a deficit of \$2,337.49 uncollected in the general fund in the year 1896.

That the total property valuation as shown by the assessment rolls of said County of Grant for the year 1896 is the sum of \$3,334,488.00.

That the amount of the levy for the general fund, at the rate of 2 1-2 mills is the sum of \$8,336.22, which said last mentioned sum formed the general fund applicable to the payment of county expenses for the year 1897.

That of said fund there was collected in the said year 1897, for the payment of county expenses, the sum of \$6,300.58, leaving a deficit of \$2,035.64 uncollected in the general fund for the year 1897.

18.

That the amount of the judgment aforesaid rendered in favor of Andrew B. Laird against the said County of Grant was the sum of \$10,434.34, and the judgment levy made by the said Board of County Commissioners in the year 1895 was made for the payment of the said judgment.

19.

That the judgment levy made in the year 1896 by said Board of County Commissioners was made for the payment of judgments rendered against said County of Grant in favor of the following named persons for the following amounts, respectively, to-wit:

Charles G. Bell.....	\$ 599 57
Silver City National Bank.....	11,221 73
Henry S. Gillett, et al.....	1,838 01

A total sum of..... \$13,659 31

20.

That the judgment levy made in the year 1897 by said Board of County Commissioners was made for the payment of judgments rendered against said County of Grant in favor of the following named persons for the following amounts, respectively, to-wit:

Baylor Shannon.....	\$ 6,397 60
Moorman and Company.....	3,643 12
Kate Thomas.....	436 58
Seaman Field.....	543 02

A total sum of..... \$11,020 92

21.

63 That all of the indebtedness upon which the said judgments mentioned in Paragraphs 18, 19 and 20 hereof were obtained accrued on account of the current expenses of said County during the years 1893 to 1897 inclusive and were payable out of the general fund of said County of Grant for the said years.

22.

That such indebtedness accrued on account of:—

First:—Salaries of the Probate Clerks, Probate Judges, County Commissioners, County Treasurer, District Attorney, County Jailers and Guards in the County Jail.

Second:—Expenses of regular Territorial elections as fixed by law.

Third:—Fees of Justices of the Peace for the various Precincts of said County; mileage of Constables for the various Precincts; mileage for Sheriffs of said County and for feeding prisoners in the County Jail.

Fourth:—Postage and printing and supplies to the County of Grant.

Fifth:—Transportation of insane persons committed to the Territorial Asylum by the District Court of said County.

Sixth:—Miscellaneous expenses incurred by said County in the management and discharge of its municipal affairs.

23.

That the amount of indebtedness so incurred by said County of Grant forming a part of said judgments and of the levies made for the payment of said judgments under the several classes of Paragraph 22 hereof is as follows, to-wit:

Class 1.....	\$ 9,004 90
Class 2.....	781 51
Class 3.....	15,790 85
Class 4.....	3,309 81
Class 5.....	362 32
Class 6.....	5,865 18

24.

64	That the percentage of the levy made in 1895 to cover the indebtedness under Class 1, Paragraph 22, is.....	.08647
	Class 2, Paragraph 22, is.....	.00000
	Class 3, Paragraph 22, is.....	.83242
	Class 4, Paragraph 22, is.....	.05758
	Class 5, Paragraph 22, is.....	.01527
	Class 6, Paragraph 22, is.....	.00826

	That the percentage of the levy made in the year 1896 to cover the indebtedness under Class 1, is.....	.49889
	Class 2, is.....	.01735
	Class 3, is.....	.05732
	Class 4, is.....	.10747
	Class 5, is.....	.00000
	Class 6, is.....	.31897

	That the percentage of the levy made in the year 1897 for the payment of the indebtedness under Class 1, is.....	.11686
	Class 2, is.....	.04942
	Class 3, is.....	.57365
	Class 4, is.....	.11261
	Class 5, is.....	.01876
	Class 6, is.....	.12868

25.

That the amount of the indebtedness for the year 1893 covered into the aforesaid judgments, for which the levies for the years 1895, 1896 and 1897, respectively, were made, is the sum of \$712.41, and that the deficit as heretofore shown in the general fund for that year was the sum of \$4,551.65, showing an excess in the levy for the general fund for the said year above the indebtedness covered by said judgments of \$3,730.24.

That the amount of the indebtedness for the year 1894 covered in the aforesaid judgments, for which said levies were made is the sum of \$15,597.73 and that the deficit as heretofore shown in the general fund for that year was the sum of \$3,719.50, showing a deficit in the general fund for that year above the indebtedness covered by said judgments of \$11,878.23.

That the amount of indebtedness for the year 1895 covered in aforesaid judgments for which said levies were made is the sum of \$7,079.75 and that the deficit, as heretofore shown in the general fund for that year was the sum of \$3,495.76, showing a deficit in the general fund for that year above the indebtedness covered by said judgments of \$3,583.99.

That the amount of the indebtedness for the year 1896 covered in the aforesaid judgments for which said levies were made is the sum of \$11,218.98 and that the deficit as heretofore shown in the general fund for that year was the sum of \$2,337.49, showing a deficit in the general fund for that year above the indebtedness covered by said judgments of \$8,880.49.

That the amount of indebtedness for the year 1897, covered in the aforesaid judgments for which said levies were made is the sum of \$505.70 and that the deficit as heretofore shown in the general fund for that year was the sum of \$2,035.64, showing an excess in the general fund above the indebtedness covered by said judgments of \$1,529.94.

That the Territorial Board of Equalization, at their regular meetings held for that purpose in and during said years 1895, 1896 and 1897, fixed the valuation upon all railroad property in the Territory of New Mexico, and that Exhibit "E" hereto attached, is a correct copy of the proceedings of the said Board in that behalf.

That within the time required by law the defendants herein duly appealed from the decision of the Board of County Commissioners of the County of Grant in raising the valuation placed upon defendants' property in said County in and for the year 1897, which said appeals are hereto attached and made a part hereof, marked Exhibit "F" and which said appeals were acted upon by the Territorial Board of Equalization as stated in Paragraph 14 hereof.

66 Territory of New Mexico,
County of Grant

IN THE DISTRICT COURT.

The within and foregoing Statement of Facts, with the several Exhibits thereto attached, in the above entitled cases is hereby agreed to be true and correct, and it is further agreed that a jury may be waived and that the court may try and pass upon the issues in said cases upon the said agreed statement of facts and the several Exhibits thereto attached.

WILLIAM H. H. LLEWELLYN,
District Attorney.

A. H. HARLLEE,
Attorneys for Plaintiff.

R. E. TWITCHELL,
Attorney for Defendants.

EXHIBIT "A."

1895.

SCHEDULES SHOWING

The personal property belonging to the Rio Grande, Mexico and Pacific Railroad Company, the Silver City, Deming and Pacific Railroad, corporations existing under the laws of the Territory of New Mexico, and leased lines of the Atchison, Topeka and Santa Fe Railroad Company in Grant County, Territory of New Mexico, on the first day of March, 1895.

SCHEDULE NO. 1.

Showing roadbed, track, telegraph line, franchises, etc., in

GRANT COUNTY.

THE RIO GRANDE, MEXICO AND PACIFIC RAILROAD.

	Valuation.
Main track—10.98 miles.....	\$71,370 00
Sidetrack—1.67 miles	3,340 00
67 Telegraph—6 wires	549 00
	<hr/>
	\$88,094 00

SILVER CITY, DEMING AND PACIFIC RAILROAD.

	Valuation.
Main track—48.29 miles.....	\$313,885 00
Sidetrack—1.67 miles	3,340 00
Telegraph—1 wire	1,207 25
Total	<u>\$318,432 25</u>

SCHEDULE NO. 2.

Showing buildings, platforms, tanks, etc., in Grant County.

THE RIO GRANDE, MEXICO AND PACIFIC RAILROAD.

Deming—

Car repair shop, 12x14 wood.....	\$ 50.
Section house, 18x30 wood.....	300.
Tool house, 12x16 wood.....	40.
Hotel, etc., 1-2 interest, 40x162 wood.....	3,000.
Freight depot and platform, 30x175, wood.....	1,600.
Scales, 36, wood	125.
Baggage room, 1-2 int., 27x49, wood.....	150.
	<u>\$ 5,265.</u>

Whitney—

Tenements Nos. 6 to 10 each, 18x28, wood.....	\$ 600.
Coal chute and bins, 32x37, wood.....	1,100.
Ice house, 24x49, wood.....	175.
Pump house, 20x30, wood.....	150.
Car repair shop, 15x30, wood.....	75.
Tank, 24,	300.
Tool house, 12x16, wood.....	40.
M. M. office, 16x32, wood.....	125.
Stock yards, 100x305, wood.....	450.
68 Engine house and turntable, 8 stalls, stone..	3,000.
Oil house, 20x28, wood.....	400.
	<u>\$ 6,415.</u>
Total	<u>\$11,680.</u>

SILVER CITY, DEMING AND PACIFIC RAILROAD.

Crawfords—

Tool house, 12x16, wood.....	\$ 40.
Section house, 16x32, wood.....	200.
Tank and windmill, 20, wood.....	250.
	<u>\$ 490.</u>

Hudson's—

Depot and platform, 20x52, wood.....	\$ 200.
	<u>\$ 200.</u>

Whitewater—	
Depot and platform, 25x40, wood.....	\$ 300.
Section house, 16x32, wood.....	200.
	—————\$ 500.
Silver City—	
Two tanks and windmill, 20, wood.....	\$ 750.
Depot platform and tool house, 24x80, wood, 12x16, wood.....	840.
Coach platform and coal bin, 6x141, wood, 8x28, wood.....	105.
Stock yards and hose house, 100x229, 4x6, wood....	610.
Engine house and turntable, 2 stalls, wood, 54, wood	925.
	—————\$ 3,230.
Total	\$ 4,420.

SCHEDULE NO. 3.

Showing the value of track, bridge and building and water service,
tools, office and station furniture, fuel, shop machinery and
69 tools, hand and push cars, material and supplies on hand, and
all other personal property in Grant County.

THE RIO GRANDE, MEXICO AND PACIFIC RAILROAD.

Deming—Value of station.....	\$ 324.
Total	—————\$ 324.

SILVER CITY, DEMING AND PACIFIC RAILROAD.

Deming—Value of station.....	\$ 14.
Crawfords—Value of station.....	17.
Hudson's—Value of station.....	11.
Whitewater—Value of station.....	21.
Silver City—Value of station.....	48.
Total	—————\$ 111.

No return was made to Silver City, but property was assessed at
\$30,065.

EXHIBIT "B."

1896.

SCHEDULE SHOWING

The personal property belonging to The Rio Grande, Mexico and
Pacific Railroad, the Silver City, Deming and Pacific Railroad, cor-
porations existing under the laws of the Territory of New Mexico
and leased lines of the Atchison, Topeka and Santa Fe Railroad
Company, in Grant County, Territory of New Mexico, on the first
day of March, 1896.

SCHEDULE NO. 1.

Showing roadbed, tracks, franchises, telegraph, etc., in Grant County.

THE RIO GRANDE, MEXICO AND PACIFIC RAILROAD.

	Valuation.
70 Main track, 10.98 miles.....	\$71,370.
Sidetrack, 7.10 miles.....	17,750.
Telegraph, 6 wires.....	549.
	<hr/>
	\$89,669.

SILVER CITY, DEMING AND PACIFIC RAILROAD.

	Valuation.
Main track, 48.29 miles.....	\$313,885.00
Sidetrack, 2.14 miles.....	4,280.00
Telegraph, 1 wire.....	1,207.25
	<hr/>
Total	\$319,372.25

SCHEDULE NO. 2.

Showing depots, tanks, buildings, etc., in Grant County.

THE RIO GRANDE, MEXICO AND PACIFIC RAILROAD.

Deming—

Car repair shop, 12x14.....	\$ 25.
Section house, etc., 18x30.....	400.
Tool house, 12x16.....	40.
Depot hotel, 1-2 interest, 40x162.....	3,750.
Freight depot, 1-2 interest, 30x175.....	1,250.
Track scales, 1-2 interest, 60 tons.....	100.
Baggage room, 1-2 interest, 27x49.....	150.
	<hr/>
	\$ 5,715.

Whitney—

Tenements Nos. 6 to 10 each, 18x28.....	\$ 600.
Coal chute and bins, 31x37.....	700.
Ice house, 24x49.....	150.
Pump house, 20x30.....	40.
Car repair shops, 15x30.....	75.
Tank, 24	300.
Tool house, 12x16.....	40.
Master mechanic's office, 16x32.....	125.
Stock yards, 100x305.....	300.
71 Stone engine house, 8 stalls and	
Turntable, 52.....	1,800.
Stone oil house, 20x28.....	400.
	<hr/>
	\$ 4,530.
Total	<hr/>
	\$10,245.

SILVER CITY, DEMING AND PACIFIC RAILROAD.

Crawfords—		
Tool house, 12x16.....	\$	40.
Section house, etc., 16x32.....		250.
Tank and windmill, 20.....		400.
		<hr/> \$ 690.
Hudsons—		
Depot, etc., 20x52.....	\$	325.
		<hr/> \$ 325.
Whitewater—		
Depot, etc., 25x40.....	\$	300.
Section house, etc., 16x32.....		250.
		<hr/> \$ 550.
Silver City—		
Dwelling, etc., brick, 16x123.....	\$	250.
Tool house, 12x16.....		40.
Engine house, 2 stalls		
Turntable, 54 '		
Coal bin, 6x27.....		900.
Depot, etc., 24x80.....		600.
Hose house, 4x6.....		10.
Water tank, 20 '.....		300.
		<hr/> \$ 2,100.
East of Silver City—		
Stock yards, 100x229.....	\$	250.
Tank and windmill, 20 '.....		400.
		<hr/> \$ 650.
Total	\$	4,315.

Showing the value of track, bridge, building and water service, tools, office and depot furniture, shop machinery and tools, hand and push cars, fuel on hand, material and supplies and all other personal property, in Grant County.

THE RIO GRANDE, MEXICO AND PACIFIC RAILROAD.

Deming Value of station.....	\$	324.
Total	<hr/> \$	324.

SILVER CITY, DEMING AND PACIFIC RAILROAD.

Crawford's—Value of station.....	\$ 21.
Whitewater—Value of station.....	14.
Hudson's—Value of station.....	6.
Silver City—Value of station.....	55.
Total	\$ 96.

Statement of personal property located in the City of Silver City, Grant County, New Mexico, on May 1, 1896, returned for the purpose of assessment and taxation.

	Valuation.
2.03 miles of main track, at \$6,000.00 per ml.....	\$12,180.00
2.03 miles of telegraph line at \$25.00 per mile.....	50.00
0.98 miles of sidetrack at \$2,500.00 per mile.....	2,450.00
Dwelling, etc., brick, size 16x123 feet.....	250.00
Section, tool house, wood, size 12x16 feet.....	40.00
Engine house, 2 stalls, wood, turntable, 54 feet long and coal bin, wood, size 8x27 feet.....	900.00
Depot, platform, etc., wood, size 24x80 feet.....	600.00
Hose house, wood, size 4x6 feet.....	10.00
Water tank, wood, size 16x20 feet.....	300.00
Tools, furniture, material and other property.....	55.00

Total value of all personal property.....\$16,835.00

73

EXHIBIT "C."

1897.

SCHEDULES SHOWING.

The personal property belonging to the Rio Grande, Mexico and Pacific Railroad, the Silver City, Deming and Pacific Railroad, corporations existing under the laws of the Territory of New Mexico and leased lines of the Atchison, Topeka and Santa Fe Railroad Company, in Grant County, Territory of New Mexico, on the first day of March, 1897.

SCHEDULE NO. 1.

Showing roadbed, tracks, franchises, telegraph, etc., in Grant County.

THE RIO GRANDE, MEXICO AND PACIFIC RAILROAD.

	Valuation.
Main track, 10.98 miles.....	\$71,370.
Sidetrack, 7.10 miles.....	17,750.
Telegraph, 4 wires.....	439.20
Total	\$89,559.20

SILVER CITY, DEMING AND PACIFIC RAILROAD.

	Valuation.
Main track, 48.29 miles.....	\$217,305.
Sidetrack, 2.14 miles.....	5,350.
Telegraph, 1 wire.....	1,207.25
Total	\$223,862.25

SCHEDULE NO. 2.

Showing depots, tanks, building, etc., in Grant County.

RIO GRANDE, MEXICO AND PACIFIC RAILROAD.

Deming—

Car repair shop, 12x14.....	\$ 25.
74 Section house, etc., 18x30.....	400.
Tool house, etc., 12x16.....	40.
Depot hotel, 1-2 interest, 40x162.....	4,500
Freight depot, 1-2 interest, 30x175.....	1,500
Track scales, 1-2 interest, 60 tons.....	100.
Baggage room, 1-2 interest, 27x49.....	300.
	<u>\$6,865.</u>

Whitney—

Coal chute and bins, 12 pockets.....	\$ 700.
Ice house, 24x49.....	150.
Pump house and coal bin, 20x30.....	40.
Car repair shop, 15x30.....	75.
Tank, 24'	300.
Tool house, 12x16.....	40.
Master mech. office, 16x32.....	125.
Stock yards, 190x305.....	350.
Engine house, turntable, 8 stalls, 54'.....	1,800.
Oil house, 20x28.....	400.
	<u>\$3,980</u>
Total	\$10,845

SILVER CITY, DEMING AND PACIFIC RAILROAD.

Crawford's—		
Tool house, 12x16.....	\$ 40.	
Section house, etc., 16x32.....	250.	
Tank and windmill, 20'.....	400.	
	<hr/>	\$690.
Hudson—		
Depot, etc., 20x52.....	\$325.	\$325.
Whitewater—		
Depot, etc., 25x40.....	\$300.	
Section house, etc., 16x32	250	
	<hr/>	\$550.
Silver City—		
Dwelling, etc., 16x123.....	\$250.	
Tool house, 12x16.....	40.	
75 Engine house, 2 stalls.....		
Turntable, 54'		
Coal bin, 8x27.....	900.	
Depot, etc., 24x80.....	600.	
Hose house, 4x6.....	10.	
	<hr/>	\$1,800.
East of Silver City—		
Stock yards, 100x229.....	\$ 250.	
Tank and windmill, 20'.....	400.	
	<hr/>	\$650
Total		\$4,015.

SCHEDULE NO. 3.

Showing the value of track, bridge, building and water service tools, office and depot furniture, shop machinery and tools, hand and push cars, fuel on hand, material and supplies and all other personal property.

RIO GRANDE, MEXICO AND PACIFIC RAILROAD.

Deming, value of station.....	\$263.	
Total	<hr/>	\$263.

SILVER CITY, DEMING AND PACIFIC RAILROAD.

Crawford's, value of station.....	\$19.	
Whitewater, value of station.....	16.	
Hudson, value of station.....	5.	
Silver City, value of station.....	47.	
Total	<hr/>	\$87.

SILVER CITY, DEMING AND PACIFIC RAILROAD.

Statement of personal property located in the City of Silver City, Grant County, New Mexico, on May 1st, 1897, returned for the purpose of Assessment and Taxation.

76	2.03 miles of main track, at \$4,500.00 per mile, value	\$9,135 00
	2.03 miles telegraph line, at \$25.00 per mile, value.....	50 00
	0.98 miles side track, at \$2,500.00 per mile value.....	2,450 00
	Dwelling, etc., size 16x123 feet, value.....	40 00
	Engine house, 2 stalls, wood, turntable, 54 feet long, and coal bin, wood, size 8x27 feet, value.....	900 00
	Depot platform, etc., wood, size 24x80 (24x80) feet, value	600 00
	Hose house, wood, size 4x6 feet, value.....	10 00
	Tools, furniture, material and other property, value	47 00
	1 locomotive, value.....	4,000 00
	1 passenger coach, value.....	2,000 00
	1 B. M. & E. car, value.....	\$1,500 00

Total value of all personal property.....\$20,982 00

EXHIBIT "D."

1895.

Special meeting of the Board of County Commissioners begun and held at Silver City, Grant County, N. M., June 3rd, 1895.

The following raises in assessments for the year 1895 of the following persons and property was made and the clerk ordered to notify the parties so raised.

(The list which follows, includes)

A. T. S. F. R. R. Co. road bed from \$6,500 to \$8,000 per mile. Pp. 362-365, of record.

Regular meeting of the board of County Commissioners begun and held at Silver City, Grant County, N. M., the 8th day of July, 1895, pursuant to adjournment from July 1st, 1895.

The Board met as a Board of Equalization and acted upon raises in assessments with the following results:

77 (Then follows a long list, including)

A. T. & S. F. R. R. Co. on road bed, not sustained.

A. T. & S. F. R. R. Co. on buildings, etc., sustained. Pp. 366-369, Record of Proceedings.

1896.

Special meeting of the Board of County Commissioners of Grant County, N. M., begun and held in Silver City, N. M., June 15th,

1896, pursuant to adjournment from June 1st, 1896. The following raises in assessments for the year 1896 of the following persons and property was made and the Clerk ordered to notify the parties so raised.

(The list then following includes)

A. T. & S. F. R. R. on personal and real, from \$11,894 to \$20,470. P. 397 of Record.

Regular meeting of the Board of County Commissioners of Grant County, begun and held at Silver City, N. M., July 6th, 1896.

The Board met as a Board of Equalization and acted upon raises in assessments with the following result:

(One in long list being)

A. T. & S. F. R. R. raise to \$20,470.00. Sustained. P. 401 of Record.

1897.

Special meeting of the Board of County Commissioners of Grant County, N. M., begun and held at Silver City, June 7th, 1897.

Board met for the purpose of accepting and approving tax returns for the year 1897, whereupon the following raises in assessment for said year of the following persons and property was made, and the clerk ordered to notify the persons so raised.

(List following includes)

A. T. & S. F. R. R. Co. On personal and real, from \$11,894 to \$20,470.

A. T. & S. F. R. R. Co. Track scales at Deming, \$200.

78 A. T. & S. F. R. R. Co. Track S. C. D. & P. R. R., from \$4,500 to \$6,500 per mile.

A. T. & S. F. R. R. Co Add, pipe line, Whitney to Deming, \$500. P. 449 of Record.

1897.

Regular meeting of the Board of County Commissioners of Grant County, begun and held at Silver City, N. M., July 12th, 1897.

The Board met as a Board of Equalization and acted upon raises and assessments with the following result:

A. T. & S. F. R. R. Raise to \$20,470 sustained. P. 453 of Record.

THE TERRITORY OF NEW MEXICO VS.
TERRITORY OF NEW MEXICO.

Office of the Secretary.

Certificate.

I, George H. Wallace, Secretary of the Territory of New Mexico, do hereby certify there was filed for record in this office at o'clock, M., on the Twelfth day of September, A. D. 1897, the order made by Board of County Commissioners in the matter of the assessment of the Atchison, Topeka and Santa Fe Railway Company certified from the office of Probate Clerk, and also, that I have compared the following copy of the same, with the original thereof now on file, and declare it to be a correct transcript therefrom and of the whole thereof.

In witness whereof, I have hereunto set my hand and affixed my official seal this Sixteenth day of May, A. D. 1899.

(Seal)

(Signed)

GEO. H. WALLACE,
Secretary of New Mexico.

EXHIBIT "D."

It appearing to the Board that the record of the assessment of taxes against the Atchison, Topeka and Santa Fe R. R. Co. for the year 1897 is erroneous in that it does not correctly express the action of the Board in the premises, it is ordered that the said record be and the same is hereby corrected so as to read as follows, to-wit:

Raise valuation at Deming, New Mexico—

	Returned at	Raised to
Section house, etc.....	\$400 00	\$600 00
Depot hotel (1-2 int.).....	4,500 00	5,000 00
Baggage room (1-2 int.).....	300 00	350 00
Track scales (1-2 int.).....	100 00	250 00
Raise valuation at Whitney—		
Coal chutes and bins.....	700 00	1,000 00
Ice house.....	150 00	300 00
Pump house and coal bin.....	40 00	100 00
Tank.....	300 00	500 00
Stock yards.....	350 00	500 00
Engine house and turntable.....	1,800 00	3,000 00
Oil house.....	400 00	800 00
Silver City—		
Depot, etc.....	600 00	1,200 00
Engine house, turntable and bins.....	900 00	1,200 00
Totals.....	\$10,540 00	\$14,800 00

Additions—

Personal property etc., at Silver City.....	\$300 00
Fuel, material, tools, office furniture and personal at Deming.....	2,000 00
Pipe line from Whitney to Deming.....	500 00
S. E. 1-4 Sec. 28-T. 23-R. 9-(Deming stock yards) part of above tract—80 acres.....	100 00
Total.....	\$2,900 00

Silver City, Deming and Pacific Railroad. Main line track.	
48.29 miles track returned at \$4,500 00 per mile...	\$217,305 00
80 48.29 miles track raised to \$6,500 00 per mile..	313,885 00
A raise of \$2,000 00 per mile on 48.29 miles.....	\$96,580 00

It is further ordered that a copy of this record as above changed be served upon said Atchison, Topeka and Santa Fe Railway Company.

Territory of New Mexico,)
) ss.
County of Grant.)

I, E. M. Young, Clerk of the Board of County Commissioners in and for said County and Territory do hereby certify that the above and foregoing is a true and correct copy of the order made by the Board of County Commissioners on the 7th day of September, A. D. 1897, in the matter of the assessment of the Atchison, Topeka and Santa Fe Railway Co., as the same appears of record at pages 461, 462 and 463 in Book 2 of Commissioners Minutes, records of Grant County, N. M.

In witness whereof, I have hereunto set my hand and affixed the seal of said Board at my office in Silver City, N. M., this the 9th day of September, A. D. 1897.

(Seal)

E. M. YOUNG,

Clerk of the Board of County Commissioners of Grant
County, N. M.

By J. A. SHIPLEY,
Deputy.

(Endorsed.)

Territory of New Mexico,)
) ss.
County of Grant.)

I, E. M. Young, Clerk of the Board of County Commissioners, in and for said County and Territory, do hereby certify that on the

81 9th day of September, A. D. 1897, I executed the within by
 delivering a true copy to Conway and Hawkins, Attorneys.
 E. M. YOUNG,
 Clerk of the Board of County Commissioners of Grant
 County, N. M.
 By J. A. SHIPLEY,
 Deputy.

RAISES AS MADE BY THE COUNTY COMMISSIONERS
 UPON SCHEDULES TWO AND THREE OF DEFEND-
 ANTS' TAX RETURNS FOR THE YEAR 1895.

Statement of Valuations, 1895.

Rio Grande, Mexico and Pacific Railroad Company.

Raised valuation—

Schedule No. 2.

Deming and Whitney—

	From	To
Section house	\$300 00	\$750 00
Hotel, 1-2 interest.....	3,000 00	6,000 00
Baggage and express room.....	150 00	500 00
Tenement houses	600 00	1,000 00
Coal chutes	1,100 00	1,500 00
Ice house	175 00	300 00
Pump house	150 00	300 00
Tank	300 00	500 00
Master mechanic's office.....	125 00	200 00
Engine house, etc.....	3,000 00	4,000 00
Oil house	400 00	800 00
Total raise on schedule No. 2, \$6,550 00..	\$9,300 00	\$15,850 00
Total raise on schedule No. 3, \$3,476 00..	324 00	3,800 00
Total raise on Rio G. Mex. & Pac. Rail- road Co. is.....	\$10,026 00	

Silver City, Deming and Pacific Company.

Raised valuation—

Schedule No. 2.

	From	To
Silver City—		
Depot and platform.....	\$840 00	\$1,000 00
Engine house and turntable.....	925 00	1,500 00
Adobe and brick house.....(additional)		400 00
Whitewater—		
Depot and platform.....	300 00	500 00
Section house	200 00	300 00
Hudson—		
Depot, etc.	200 00	400 00
Crawford—		
Section house.....	200 00	400 00
Tank and windmill.....	250 00	400 00
	<hr/>	<hr/>
	\$2,915 00	\$4,900 00
Total raise on S. City, Dem. & Pac.....		\$1,985 00

Supplemental to "Exhibit D."

Territory of New Mexico,
Office of the Secretary.

I have compared the following copy of the proceedings of the New Mexico Territorial Board of Equalization relating to assessments and appeals of the Atchison, Topeka and Santa Fe Railway Company and branches for the years 1895, 1896, 1897, 1898 and part of 1899, with the original records thereof on file in this office, and I hereby certify the same to be a correct transcript therefrom, and of all matters relating thereto.

Witness my hand and the seal of the Secretary of the Territory, at Santa Fe, the Twenty-sixth day of April, one thousand eight hundred and ninety-nine.

(Seal)

(Signed)

GEO. H. WALLACE,
Secretary of New Mexico.

EXHIBIT "E."

Tuesday, January 8th, 1895.

The Board met pursuant to the adjournment of yesterday, there being present Messrs. Corbett, Baca, Kelley and Kennedy. There being a quorum present, the Board proceeded to fix a valuation of the various kinds of property throughout the Territory of New

Mexico for the year 1895 and it was ordered and decided by said Board that all railroads of standard gauge which shall be subject to taxation on the first day of March, 1895, in each county in this Territory through which they run and are situated and running north and east of the Atchison, Topeka and Santa Fe Railroad Depot in the city of Albuquerque shall be valued and assessed to the Company or Corporation owning or operating the same at the rate of Seven Thousand Dollars (\$7,000.00) per mile for each and every mile of main line; and at the rate of Twenty-five hundred dollars (\$2,500.00) per mile for each and every mile of switch and side track; and at the rate of Four Thousand Five Hundred Dollars (\$4,500.00) for each and every mile of branch lines; and that the assessment and value per mile on the above stated main lines, branches and switches shall include all rolling stock of said company or companies used thereon, consisting of locomotive engines and cars of all descriptions, but shall not include any buildings, tools or machinery used in repair shops or supplies or materials, nor telegraph lines.

It is further ordered and decided by this Board that all railroads of standard gauge situated south of the north end of the Atchison, Topeka and Santa Fe R. R. depot in the City of Albuquerque, including the Atlantic and Pacific Railroad and all other standard gauge railroads south of said city of Albuquerque subject to taxation on the first day of March, 1895, shall be assessed and valued for the purpose of taxation to the company or companies owning or operating the same in the county through which they run at the rate of Sixty-five Hundred Dollars (\$6500.00) per mile for each and every

84 mile of main line and at the rate of Forty-five Hundred Dollars (\$4500.00) per mile for all branch lines and at the rate of Twenty-five Hundred Dollars (\$2500.00) per mile for all switches and side tracks connected therewith, which said valuation shall include all rolling stock used by said company or companies, consisting of locomotive engines and cars of all descriptions; but shall not include any buildings, tools, machinery used in repair shops, or other material or supplies, nor telegraph lines.

It is further ordered and decided that all narrow gauge railroads running and operating in the Territory of New Mexico and subject to taxation on the first day of March, 1895, shall be valued for the purpose of taxation in the counties through which they run at the rate of Twenty-Five Hundred Dollars (\$2500.00) per mile, for each and every mile of main and branch lines, and at the rate of Fifteen Hundred Dollars (\$1500.00) per mile on all switches and side tracks connected therewith, which said valuation shall include all rolling stock consisting of locomotive engines and cars of all descriptions; but shall not include any buildings, tools, or machinery used in repair shops or other material or supplies, nor telegraph lines. The Board adjourned until tomorrow morning at 10 o'clock a. m.

Wednesday, Jan'y 9th, 1895.

It is further ordered and decided by the Board that all Telegraph lines which are completed and in operation on the first day of March, 1895, shall be valued and assessed to the Company or Companies operating the same in the counties through which they are operated at the rate of Twenty-five Dollars (\$25.00) per mile for the first wire and Five Dollars (\$5.00) per mile for each and every additional wire.

Santa Fe, New Mexico, Aug. 6, 1895, 9 a. m.

Met pursuant to adjournment.

The full Board being present, the following proceedings were had:

85 In the matter of the appeal of the A. T. & S. F. Rd. Co. from the action of the Board of County Commissioners of Dona Ana County the raise was not sustained, on the buildings and improvements on line of road, but was overruled for the reason that such assessment is different from that made by any other Board in the various counties of the Territory, and that for that reason is discriminating and inequitable. . . .

Santa Fe, Jan. 2, 1896.

On this day at the hour of 2 o'clock p. m. pursuant to the statute in such case made and provided, the Board of Equalization of the Territory of New Mexico, met for the transaction of such business as might properly come before it. There being present, Mr. C. W. Kennedy, Mr. W. R. Tipton, Mr. George L. Ulrich, Mr. D. C. Hobart, absent Romulo Martinez.

In the matter of the Las Vegas Hot Springs appeal which was brought before the August meeting, and for lack of proper data, referred to the January meeting, after due deliberation this Board sustains the appeal, for the reason that the clerk of San Miguel County, failed to send up a transcript of the record in said cause, and this Board instructs said clerk and the Board of County Commissioners to correct their records of assessment in said cause in accordance with the return made by said Las Vegas Hot Springs Hotel Company. . . .

Santa Fe, New Mexico, January 3rd, 1896.

Board met pursuant to adjournment of yesterday. Present: C. W. Kennedy, W. R. Tipton, Geo. L. Ulrich and D. C. Hobart. Absent, Romulo Martinez.

After due deliberation, this Board has fixed the following values for the ensuing year on railroad property, telegraph lines and telephone lines, within the Territory of New Mexico as follows:

86 All railroads of standard gauge, which shall be subject to taxation on the first day of March, A. D. 1896, in each county in the Territory of New Mexico, through which they may run and are situated and running north and east of the Atchison, Topeka and Santa Fe Railroad depot, in the City of Albuquerque, N.M., shall be valued and assessed to the company or companies owning or operating the same, at the rate of seven thousand dollars per mile,

for each and every mile of main line, and at the rate of twenty-five hundred dollars per mile, for each and every mile of side, switch and track, and at the rate of four thousand five hundred dollars per mile for each and every mile of branch lines and that the assessment and value per mile on the above stated main line, branch line and switches, shall include all rolling stock of said company or companies used thereon, except such cars as belong to the Pullman Palace Car Company, and designated as Pullman Palace Cars, and consisting of locomotive engines and cars of all descriptions, but shall not include any buildings, machinery or tools used in repair shops, or any supplies or materials, nor shall it include telegraph lines.

It is ordered and decided by this Board that all telegraph lines that are completed and in operation within the Territory of New Mexico, on the first day of March, A. D. 1896, shall be valued and assessed to the company or companies operating the same, within the counties through which they are operated, at the rate of twenty-five dollars per mile for the first wire, and five dollars per mile for each and every additional wire.

It is further ordered and decided by this Board, that all railroads of standard gauge, situated south of the north end of the Atchison, Topeka & Santa Fe Railroad depot, in the city of Albuquerque, N. M., including the Atlantic and Pacific Railroad, the Southern Pacific Railroad and all other standard gauge railroads, south of said city of Albuquerque, N. M., subject to taxation on the first day of March, A. D. 1896, shall be assessed and valued for the purpose of taxation, to the company or companies owning or operating the same, in the county through which they run, at the rate of six thousand five hundred dollars per mile, for each and every mile of main line, and at the rate of four thousand five hundred dollars

87 per mile, for all branch lines, and at the rate of twenty-five hundred dollars per mile for all switches and side tracks connected with said road; which said valuation shall include all rolling stock, used by said company or companies except, Pullman Palace Cars, consisting of locomotive engines and cars of all descriptions, but shall not include any buildings, tools or machinery used in repair shops, or any other material or supplies, nor telegraph lines.

It is further ordered and decreed by this Board, that all narrow gauge railroads running through and being operated within this Territory of New Mex. and subject to taxation on the first day of March, 1896, shall be valued for the purposes of taxation, in the various counties through which they run at the rate of three thousand dollars per mile for each and every mile of main and branch lines and at the rate of fifteen hundred dollars per mile on all switches and side tracks connected therewith, which said valuation shall include all rolling stock consisting of locomotive engines and cars of all descriptions except Pullman Palace Cars; but shall not include any buildings, tools, or machinery used in repair shops or material or supplies or telegraph lines.

In the matter of fixing the values of standard gauge *hailroads*, north (north) of the City of Albuquerque, New Mexico, it shall be understood that such valuation, does not apply to the Union Pacific, Denver and Gulf R. R. This Board after due consideration, etc.

August 5th. (1896.)

In the matter of the A. T. & S. F. Rd. Company, Grant County, the appeal was sustained as to the half interest in the depot and freight house assessed; but was disallowed as to the other property mentioned for the reason that to sustain such an appeal would be to discriminate against the rate in other counties, all of which appear to be at the same rate as the case in question. . . .

9 o'clock a. m. Jan. 5th. (1897.)

The Territorial Board of Equalization for the Territory of New Mexico has fixed the following values for the ensuing
88 year on railroad property, telegraph lines, and telephone lines within the Territory of New Mexico as follows:

All railroads of standard gauge which shall be subject to taxation on the 1st day of March, 1897, in each county in the Territory of New Mexico, through which they may run and are situated and running north and east of the Atchison, Topeka and Santa Fe R. R. depot, in the city of Albuquerque, N. M., shall be valued and assessed to the companies owning or operating the same at the rate of \$7,000.00 per mile, for each and every mile of the main line, and at the rate of \$2,500.00 per mile for each and every mile of switch and side track, and at the rate of \$4,500.00 per mile for each and every mile of branch lines, and that the assessment and values per mile on the above stated main lines, branch lines and switches, shall include all rolling stock of said company or companies used thereon, except such cars as belong to the Pullman Palace Company, and designated as Pullman Palace Cars. The above rolling stock mentioned consists of locomotive engines, and cars of all descriptions but shall not include any buildings, machinery or tools used in repair shops, or any supplies or materials on hand, nor shall it include the telegraph lines.

It is further ordered and decided by this Board that all railroads of standard gauge, situated south of the north end of the Atchison, Topeka and Santa Fe Railroad depot, in the City of Albuquerque, N. M., including the Atlantic and Pacific Railroad, shall be subject to taxation on the first day of March, 1897, and shall be assessed for taxable purposes to the company or companies owning or operating the same in the county or counties through which they may run, at the rate of \$6,500.00 per mile for each and every mile of the main line, and at the rate of \$4,500.00 per mile for each and every mile of branch line and shall be assessed at the rate of \$2,500.00 per mile for each and every mile of switch and side track connected
89 with and belonging to the said road. Which said Valuation shall include all rolling stock used by said company or companies except Pullman Palace Cars. Said rolling stock in-

cluded, consists of locomotive engines and cars of all descriptions but shall not include any buildings, tools or machinery used in repair shops or any material or supplies on hand and shall not include telegraph lines. . . .

It is ordered and decided by this Board that all telegraph lines that are completed, and in operation within the Territory of New Mexico, on the first day of March, 1897, shall be valued and assessed to the company or companies operating the same within the counties through which they are operated, at the rate of \$25.00 per mile, for the first wire, and \$5.00 per *wire* for each and every additional wire. . . .

Santa Fe, N. M., September 20, 1897.

The Board met pursuant to adjournment of Saturday. All members present.

In the matter of the appeal of the A. T. & S. F. R. R., from Grant County, New Mexico, said appeal was continued to the January meeting of this Board, on account of the inability of the District Attorney for said County to attend such meeting, who desired to be heard in the case. . . .

Santa Fe, New Mexico, January 10, 1898.

Afternoon Session, 2 P. M.

The Board met pursuant to adjournment. All members present as this morning. In the matter of the appeal of the Silver City, Deming and Pacific Railroad of Grant County, New Mexico, which was continued from the September meeting of 1897, after receiving the opinion of the Solicitor General of New Mexico, and carefully considering all evidence presented, to said Board, the Board sustains the appeal of the A. T. & S. F. R. R. and places the value of said branch line (the same having been shown by proof brought before this Board, that the same is a branch line and shall be classified as such) and the Board instructs the Assessor of said County to

90 correct his tax roll in accordance with such finding. . . .

Santa Fe, N. M. Wednesday Morning.

10 o'clock a. m. January 12, 1898.

The Board met pursuant to adjournment of yesterday afternoon. All members present.

Hon. Henry L. Waldo representing the A., T. and S. F. R. R. appeared before this Board in the matter of taxation of said road for the ensuing year. This Board heard the statements of Judge Waldo, and received and placed on file, comparisons of taxation on various classes of property, for further consideration. . . .

Santa Fe, N. M., January 14, 1898, Friday Morning.

The Board met pursuant to adjournment of yesterday evening. All members present:

The Territorial Board of Equalization for the Territory of New Mexico have filed the following values for the ensuing year, on all taxable property as follows:

All railroads of standard gauge which shall be subject to taxation

on the first day of March, 1898, in each county in the Territory of New Mexico, through which they may run, and are situated and running, north and east of the Atchison, Topeka and Santa Fe Railroad depot, in the city of Albuquerque, New Mexico, shall be valued and assessed to the companies owning or operating the same, at the rate of Seven Thousand Dollars per mile, for each and every mile of main line; and at the rate of Twelve Hundred Dollars per mile, for each and every mile of switch and side track; and that the assessment and values per mile on the above stated main line, and switches and side tracks, shall include all rolling stock of said company or companies used thereon, except such cars as belong to the Pullman Palace Car Company, and designated as Pullman Palace Cars.

The above rolling stock mentioned consists of locomotive engines and cars of all descriptions, but shall not include any buildings, machinery or tools used in repair shops, or any supplies or material on hand, nor shall it include the telegraph lines.

91 It is further ordered and decided by this Board that all railroads of standard gauge situated south of the north end of the Atchison, Topeka and Santa Fe Railroad depot in the city of Albuquerque, New Mexico, including the Santa Fe Pacific Railroad and Southern Pacific Railroad shall be subject to taxation on the first day of March, 1898, and shall be assessed for taxable purposes, to the company or companies operating or owning the same, in the county or counties through which they may run at the rate of six thousand five hundred dollars per mile, for each and every mile of main line; and at the rate of twelve hundred dollars per mile for each and every mile of switch and side track, connected with and belonging to said road; which said valuation shall include all rolling stock used by said company or companies except Pullman Palace Cars. Said rolling stock included consists of locomotive engines and cars of all description; but shall not include any buildings, tools or machinery used in repair shops or any material or supplies on hand; and shall not include telegraph lines. . . .

January 15-98.

In the matter of fixing values of the various branch lines of railroad running and being operated through the various counties of New Mexico: It is ordered and decided by this Board, that the following valuations shall be placed on the various branch lines of the railroads, to-wit:

Dillon and Blossburg Branch of the A., T. and S. F. R. R., four thousand five hundred dollars per mile of each and every mile of main line, and twelve hundred dollars per mile of switch and side track. Hot Springs Branch of the A., T. and S. F. R. R., four thousand five hundred dollars per mile for each and every mile of main line, and twelve hundred dollars per mile for each and every mile of side track and switches.

In the matter of the Santa Fe Branch of the A., T. and S. F. R. R. this Board places the valuation of said railroad at the rate of four

- 92 thousand five hundred dollars per mile for each and every mile of main line and at the rate of twelve hundred dollars per mile for each and every mile of switch and side track.

In the matter of the Socorro and Magdalena Branch of the A., T. and S. F. R. R., this Board places the valuation of said branch at four thousand and five hundred dollars per mile for each and every mile of main line, and at the rate of twelve hundred dollars per mile for each and every mile of switch and side track.

In the matter of the Lake Valley branch of the A., T. and S. F. R. R., this Board places the valuation of three thousand five hundred dollars per mile for each and every mile of main line, and twelve hundred dollars per mile for each and every mile of switch and side track.

In the matter of the Silver City, Deming and Pacific Railroad, this Board fixes the valuation of four thousand five hundred dollars per mile, for each and every mile of main line, and the valuation of two hundred dollars per mile of switch and side track.

In the matter of the Whitewater Spur of the A., T. and S. F. R., this Board fixes the valuation at three thousand dollars per mile for each and every mile of main line of said spur, and at the rate of twelve hundred dollars per mile for each and every mile of switch and side track.

It is further ordered and decided by this Board that all telegraph lines that are completed and operated within the Territory of New Mexico, on the first day of March, A. D. 1898, shall be valued and assessed to the company or companies operating the same, within the counties through which they may run and are operated, at the rate of twenty-five dollars per mile for the first wire, and at the rate of five dollars per mile for each and every additional wire. . . . Afternoon Session, Monday, September 12-98.

The Board met pursuant to adjournment of this morning. All members present.

In the matter of the appeal of the A., T. and S. F. Railway Company, and The Silver City, Deming and Pacific Railway Company, the appeal of said companies is sustained; also the appeal of 93 the aforesaid companies for 1897, which was continued from the September, 1897, to the January meeting, 1898, and then continued to the present meeting, was also sustained the portion of said appeals referring to personal property of said roads for the years 1897 and 1898, was sustained for the reason that all property of like class throughout the various counties through which said road runs, were assessed at the same valuation as has been placed on said property in Grant County by said Railroad, as evidenced by the returns of said company. And this Board instructs the Territorial Auditor to notify the Board of County Commissioners of Grant County to correct their records in accordance with this ruling. . . .

Afternoon Session, Tuesday, Jan. 10, 1899.

Board met pursuant to adjournment. All members present.

Hon. Henry L. Waldo, representing the A., T. and S. F. R. R.,

appeared before the Board in the matter of taxation of said road for the ensuing year. The Board heard the statements made by Judge Waldo and placed the same on file for further consideration. . . . Friday Morning, Jan. 13, 1899.

Board met pursuant to adjournment of yesterday. All members present.

On motion of Hon. Thos. Hughes the Board proceeded to consider the valuations to be placed on the various classes of property subject to taxation, on the first day of March, 1899, within the Territory of New Mexico.

The Territorial Board of Equalization for the Territory of New Mexico have fixed the following values, for the ensuing year, on all taxable property, within said Territory, subject to taxation on the first day of March, 1899, as follows:

All railroads of standard gauge which shall be subject to taxation on the first day of March, 1899, in each county, in the Territory of New Mexico, through which they may run and are situated and running north and east of the Atchison, Topeka and Santa Fe Railroad depot, in the city of Albuquerque, New Mexico, shall be 94 valued and assessed to the companies owning or operating the same, at the rate of seven thousand dollars per mile, for each and every mile of main line; and at the rate of twelve hundred dollars per mile, for each and every mile of switch and side track. And that the assessment and values per mile on the above stated main line and switches and side tracks, shall include all rolling stock, of said company or companies used thereon, except such cars as belong to the Pullman Palace Car Company, and designated as Pullman Palace Cars.

The above rolling stock mentioned consists of locomotive engines and cars of all descriptions, but shall not include any buildings, machinery or tools used in the repair shops, or any supplies or material on hand, nor shall it include the telegraph lines.

It is further ordered and decided by this Board, that all railroads of standard gauge, situated south of the north end of the Atchison, Topeka and Santa Fe Railroad depot, in the City of Albuquerque, New Mexico, (including the Santa Fe Pacific Railroad, shall be subject to taxation on the first day of March, 1899, and shall be assessed for taxable purposes, to the company or companies operating or owning the same in the county or counties, through which they may run, at the rate of six thousand five hundred dollars per mile, for each and every mile of main line; and at the rate of twelve hundred dollars per mile, for each and every mile of switch and side track, connected with and belonging to said road; which said valuations shall include all rolling stock used by said company or companies, except Pullman Palace Cars. Said rolling stock included consists of locomotive engines and cars of all descriptions; but shall not include any buildings, tools or machinery used in repair shops, or any material or any supplies on hand; and shall not include telegraph lines.. . .

In the matter of fixing the value of the branch lines of railroad running and operating through the various counties in New Mexico, it is ordered and decided by this Board, that the following
95 valuations shall be placed on the various lines of the railroads, to-wit:

Dillon and Blossburg branch of the A., T. and S. F. R. R. four thousand five hundred dollars per mile, for each and every mile of main line, and twelve hundred dollars per mile, for each and every mile of switch and side track.

Hot Springs branch of the A., T. and S. F. R. R. four thousand five hundred dollars per mile, for each and every mile of the main line, and twelve hundred dollars per mile, for each and every mile of side tracks and switches.

In the matter of the Santa Fe branch of the A., T. and S. F. R. R. this Board places the valuations of said railroad, at the rate of four thousand five hundred dollars per mile, for each and every mile of the main line, and at the rate of twelve hundred dollars per mile, for each and every mile of switch and side track.

In the matter of the Socorro and Magdalena branch of the A., T. and S. F. R. R., this Board places the valuation of the branch at four thousand dollars per mile, for each and every mile of the main line, and at the rate of twelve hundred dollars per mile, for each and every mile of switch and side track.

In the matter of the Lake Valley branch of the A., T. and S. F. R. R. this Board places the valuation of three thousand five hundred dollars per mile, for each and every mile of the main line, and twelve hundred dollars per mile for each and every mile of switch and side track.

In the matter of the Silver City, Deming and Pacific Railroad, this Board fixes the valuation, of four thousand five hundred dollars per mile, for each and every mile of the main line, and the valuation of twelve hundred dollars per mile, for each and every mile of switch and side track.

In the matter of the Whitewater Spur of the A., T. and S. F. R. R., this Board fixes the valuation of three thousand dollars per mile, for each and every mile of the main line, of said spur, and at the rate of twelve hundred dollars per mile, for each and every mile, of switch and side track.

It is further ordered and decided by this Board that all
96 telegraph lines, that are completed and operated within the Territory of New Mexico, on the first day of March, A. D. 1899, shall be valued and assessed to the company or companies operating the same, within the counties through which they may run and are operated, at the rate of twenty-five dollars per mile for the first wire; and at the rate of five dollars per mile, for each and every additional wire. . . .

TERRITORY OF NEW MEXICO,
OFFICE OF THE SECRETARY,

CERTIFICATE.

I, George H. Wallace, Secretary of the Territory of New Mexico, do hereby certify there was filed for record in this office at..... o'clock ..M., on the..... day of A. D. Protest of the Silver City, Deming and Pacific Railroad Company against the valuation placed upon its track by the Board of County Commissioners of Grant County, New Mexico, for the year 1897,..... and also, that I have compared the following copy of the same with the original thereof now on file, and declare it to be a correct transcript therefrom and of the whole thereof.

(SEAL) In witness whereof, I have hereunto set my hand and affixed my official seal this Sixteenth day of May, A. D. 1899.

(Signed) GEO. H. WALLACE,
Secretary of New Mexico.

EXHIBIT "F."

*To the Honorable Board of County Commissioners of Grant County,
Territory of New Mexico.*

GENTLEMEN:

Your petitioner, The Silver City, Deming and Pacific Railroad Company, respectfully represents to your Honorable Board
97 that it has made and filed with the proper officer of the County of Grant its return of taxable property for the year eighteen hundred and ninety-seven; that in said return it fixed and estimated the value of its road-bed for its running track in said county at \$4,500 per mile, and that it had 48.29 miles of said road-bed in said County of Grant, and that the same was of the value of \$217,305, and that your petitioner is informed that the said return of said property has been raised by your Honorable Body from the sum of \$217,305, which was the amount of the valuation of said track as returned by your petitioner, to the sum of \$313,885 being an increase over and above assessment valuation and return of said track by your petitioner of the sum of \$96,580, in making which assessment and raise your Honorable Body increased the valuation of said track from the rate of \$4,500 per mile to the rate of \$6,500 per mile as though the same was a main track of the main line, where as in truth and fact your petitioner represents and states to your Honorable Body that said track of said line is, and is in reality used as, a branch line of railroad in the Territory of New Mexico within the meaning of the definition and intent of the Board of Equalization of the Territory of New Mexico in fixing the rate of taxation for branch lines; that the said Silver City, Deming and Pacific Railroad Company's line lies south of the City of Albuquerque,

New Mexico, and the valuation thereof, has by said Board of Equalization been fixed at the rate of \$4,500 per mile for each mile thereof.

Your petitioner also states to your Honorable Body that it has been notified that its real and personal property as returned by it in the County of Grant aforesaid has been increased from the sum of \$11,894 to \$20,470, and that the Board of County Commissioners has added to this return, track scales at Deming, at a valuation of \$200, and a pipe line from Whitney to Deming, at a valuation of \$500, and your petitioner states to your Honorable Body that its assessment, return and valuation of its said railroad track and of its

98 said personal property in said county, was a correct, just and fair valuation thereof; the said return of said railroad track being determined by the action of said Board of Equalization as aforesaid, and the said return as to the valuation of said personal property being the same rate and valuation at which similar railroad property throughout the Territory in general is valued.

Your petitioner therefore prays that the action of the said Board of County Commissioners in raising the valuation of said track, and of said personal property, may be revoked and rescinded, and that said valuation of said track and personal property so made by your said petitioner in its return thereof may be reinstated and allowed by your Honorable Board as originally made by your petitioner. And your petitioner further says that it owns no real estate in said County of Grant.

**SILVER CITY, DEMING AND PACIFIC RAILROAD
COMPANY.**

By (Signed) CONWAY & HAWKINS,
its attorneys.

**TERRITORY OF NEW MEXICO,
OFFICE OF THE SECRETARY.**

CERTIFICATE.

I, Geo. H. Wallace, Secretary of the Territory of New Mexico, do hereby certify there was filed for record in this office, at..... o'clock ..M., on this Twelfth day of September, A. D. 1897, the Appeal of Silver City, Deming and Pacific Railroad Company to the Board of Equalization, and also, that I have compared the following copy of the same, with the original thereof now on file, and declare it to be a correct transcript therefrom and of the whole thereof.

(SEAL)

In witness whereof, I have hereunto set my hand and affixed my official seal this Sixteenth day of May, A. D. 1899.

(Signed) GEO. H. WALLACE,
Secretary of New Mexico.

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EXHIBIT "F."

*To the Honorable Board of County Commissioners of Grant County,
Territory of New Mexico.*

GENTLEMEN:

Your petitioner, having heretofore presented its petition to your Honorable Body praying that the action of your Honorable Body heretofore taken in raising the valuation of your petitioner's railroad track in the County of Grant from the rate of \$4,500.00 to \$6,500.00 per mile, and the raise of the valuation of its personal property as returned by it in the County of Grant from the sum of \$11,894.00 to the sum of \$20,470.00 and also the adding to its return of track scales at Deming at a valuation of \$200.00 and the pipe line from Whitney to Deming at a valuation of \$500.00 should be revoked and rescinded, and that the original return and valuation of your petitioner as heretofore made by it as required by law, should be reinstated and affirmed by your Honorable Body, and your Honorable Board having refused the prayer of your petitioner, and having ordered and directed that its said raise in the valuation of said property and its additions to the amount thereof should be affirmed.

Now therefore, your petitioner, alleging that the valuation of its said line in the County of Grant aforesaid, is and has been, fixed by law at the sum of \$4,500.00 per mile as returned by it, and that the valuation of its personal property as made by it in its original return is, and was, a true and correct valuation and description thereof, hereby takes and prays an appeal from the action of your Honorable Body in declining to grant the petition of your petitioner heretofore presented to your Honorable Board, to, and to be considered by, the Territorial Board of Equalization of the Territory of New Mexico, in order that the return so originally made by your petitioner of the amount and value of its said taxable property in the County of Grant aforesaid may be sustained by said Territorial Board of
100 Equalization, and that the action of your Honorable Board in raising the valuation and amount of said property so owned by your petitioner and so returned by it may be, by said Territorial Board vacated, set aside and held for naught.

And your petitioner will ever pray, etc.

SILVER CITY, DEMING AND PACIFIC RAILROAD
COMPANY.

By CONWAY & HAWKINS,
its attorneys.

(Endorsed)

Filed in my office this 12th day of July, 1897.

E. M. YOUNG, Clerk.

Said Agreed Statement of Facts is endorsed as follows to-wit:

*In the District Court, Third Judicial District, County of Grant,
Territory of New Mexico.*

Territory of New Mexico, Plaintiff,)	
vs.)	
The A. T. and S. F. Railway Company, The	)	Numbers
R. G. M. and P. Railroad Company, The	)	3425, 3457, 3458.
S. C. D. and P. Railroad Company,)	
Defendants.)	

AGREED STATEMENT OF FACTS.

W. H. H. LLEWELLYN,
District Attorney.

R. P. BARNES,
A. H. HARLLEE,
Attorneys for Plaintiff.

R. E. TWITCHELL,
Attorney for Defendants.

Filed in my office May 1, 1901.

JAMES P. MITCHELL, Clerk.

101 And be it further remembered, that afterwards, to-wit: At a regular term of said Court begun and held within said County of Grant, at the Court House in said County on the 3rd day of March, A. D. 1902, and on the first day of said term, the same being the 3rd day of March, A. D. 1902, the following among other proceedings were had and entered of record, to-wit:

Territory of New Mexico,)	
vs.)	
The Atchison, Topeka and Santa Fe R. R. Co.	)	No. 3425. Civil.

Come now the parties hereto by their respective attorneys, and upon their motion it is ordered by the Court that the trial of this cause be, and the same is hereby set for Wednesday of the third week of the present term of this Court.

Territory of New Mexico,)	
vs.)	
The Rio Grande, Mexico and Pacific R. R. Company.	)	No. 3457. Civil.

Come now the parties hereto by their respective attorneys, and upon their motion it is ordered that the trial of this cause be, and the same is hereby, set, for Wednesday of the third week of the present term of this Court.

Territory of New Mexico,)	
vs.	)	No. 3458. Civil.
The Silver City, Deming and Pacific R. R.)	
Company.)	

Come now the parties hereto by their respective attorneys, and upon their motion it is ordered by the Court that the trial of this cause be, and the same is hereby set for Wednesday of the third week of the present term of this Court.

And be it further remembered, that afterwards, to-wit: At 102 the said regular term of Court aforesaid, and on the 24th day of March, 1902, the same being the 19th day of said term, the following among other proceedings were had and entered of record, to-wit:

Territory of New Mexico,)	
vs.	)	No. 3425. Civil.
The Atchison, Topeka and Santa Fe R. R. Co.)	
Territory of New Mexico,)	
vs.	)	No. 3457. Civil.
The Rio Grande, Mexico and Pacific Railroad)	
Company.)	

**TERRITORY OF NEW MEXICO,
THIRD JUDICIAL DISTRICT COURT,
COUNTY OF GRANT.**

I, James P. Mitchell, Clerk of the District Court of the Third Judicial District of the Territory of New Mexico, do hereby certify that the foregoing 77 pages contain a full, perfect, true and correct transcript of the whole of the record in the causes numbered No. 3425, No. 3457 and No. 3458 of the Territory of New Mexico, as plaintiff, and The Atchison, Topeka and Santa Fe Railway Company; The Rio Grande, Mexico and Pacific Railroad Company, and the Silver City, Deming and Pacific Railroad Company, as defendants, as the same appears of record in my office.

(SEAL)

In witness whereof, I have here unto set my hand and affixed the seal of said Court at my office in Silver City, New Mexico, this 12th day of December, A. D. 1902.

JAMES P. MITCHELL, Clerk.
By J. A. SHIPLEY, Deputy.

103 Territory of New Mexico,)
 vs.) No. 3458. Civil.
 The Silver City, Deming and Pacific Railroad Co.)

Comes now the Territory of New Mexico by W. H. H. Llewellyn, Esq., her District Attorney, and upon his motion it is ordered by the Court that the trial of the foregoing three causes be, and the same are hereby set for April 19th, A. D. 1902, at Las Cruces, New Mexico.

And be it further remembered, that afterwards, to-wit: On the 4th day of November, 1902, there was filed in the office of the Clerk of said Court, a judgment, said judgment is entered of record at pages 540 and 541 in Record "Q" of said Court and is in words and figures as follows, to-wit:

In the District Court, Third Judicial District, County of Grant and Territory of New Mexico.

The Territory of New Mexico, Plaintiff,)
 Versus)
 The Atchison, Topeka and Santa Fe Railway Company,) No. 3425.
 The Rio Grande, Mexico and Pacific Railroad Com-) No. 3457.
 pany and the Silver City, Deming and Pacific Rail-) No. 3458.
 road Company. Defendants.)

The above causes coming on to be heard for trial before the Court under a stipulation herein of the parties plaintiff and defendant and upon the agreed statement of facts heretofore filed herein, and the Court having read said agreed statement of facts and having heard the argument of counsel for the respective parties herein, and being fully advised in the premises, doth find as follows, viz:

That The Atchison, Topeka and Santa Fe Railway Company is indebted to the Plaintiff, the Territory of New Mexico, in the sum of One Thousand Four Hundred Eighty and seventy one-
 104 hundredths Dollars for taxes levied and assessed in the year 1895 by said County of Grant, and in the sum of One Thousand Nine hundred seventeen and eighty-three-hundredths dollars for taxes assessed and levied in the year 1896 by said County of Grant for the payment of judgments against said County of Grant and in the sum of One Thousand Four Hundred Eighty-One and Ninety-Six hundredths Dollars for taxes assessed and levied in the year 1897 by said County of Grant, and in the sum of Two Hundred Seventy-Six and Twenty one hundredths Dollars for taxes assessed and levied in the year 1895 by the said County of Grant for Territorial, County and School purposes and for the payment of judgments against said County of Grant upon an increased valuation made by the Board of County Commissioners of said County of Grant, upon the property of the said defendants in said County of

Grant, for said year 1895 being a total indebtedness of Five Thousand One Hundred Fifty-Six and Seventy-One hundredths Dollars;

Wherefore, It is by the Court, Considered, Ordered and Adjudged that the Plaintiff, the Territory of New Mexico, do have and recover of and from the defendants, The Atchison, Topeka and Santa Fe Railway Company, the Rio Grande, Mexico and Pacific Railroad Company and the Silver City, Deming and Pacific Railroad Company, the sum of Five Thousand One Hundred Fifty-Six and Seventy-one hundredths Dollars together with interest thereon at the rate of six per cent per annum from date of its costs in this suit and that execution issue therefor; to which consideration, order and judgment, the said defendants, and each of them, by their attorney, at and before the entering of said judgment, duly except.

Done at Silver City, N. M., this 9th day of October, A. D. 1902.

FRANK W. PARKER,

Associate Justice, etc.

And be it further remembered, that afterwards, to-wit: On the 6th day of December, A. D. 1902, there was filed in the office
105 of the clerk of said Court three writs of error, which said writs of error are in words and figures, as follows, to-wit:

TERRITORY OF NEW MEXICO.

To the District Court of the 3rd Judicial District of the Territory of New Mexico, sitting within and for the County of Grant, Greeting:

Because in the record and proceedings, and in the rendition of judgment, in a certain cause lately pending before you, wherein The Territory of New Mexico was plaintiff, and The Atchison, Topeka and Santa Fe Railway Company was defendant, error has intervened, as it is said, to the damage of the said The Atchison, Topeka and Santa Fe Railway Company and we being willing that such error, if any there be, should be corrected, and speedy justice done in that behalf, do command you, if judgment therein be given, that then under your seal, distinctly and openly, you send a copy of the record and proceedings aforesaid, to the Supreme Court of the Territory of New Mexico, together with this writ, so that you have the same in the said Supreme Court on the first day of the next term thereof, to be begun and held on the first Wednesday after the first Monday in January, A. D. 1903, at Santa Fe, in said Territory, in pursuance of law.

Witness, the Honorable William J. Mills, Chief Justice of the Supreme Court of the Territory of New Mexico, and the seal of the said Court, this 4th day of December, A. D. 1902.

(Seal)

J. D. SENA, Clerk.

TERRITORY OF NEW MEXICO.

To the District Court of the Third Judicial District of the Territory of New Mexico, sitting within and for the County of Grant. Greeting:

Because in the record and proceedings, and in the rendition
 106 of Judgment, in a certain cause lately pending before you, wherein The Territory of New Mexico was plaintiff, and Rio Grande, Mexico and Pacific Railroad Company was defendant, error has intervened, as it is said, to the damage of the said Rio Grande, Mexico and Pacific Railroad Company and we being willing that such error, if any there be, should be corrected, and speedy justice done in that behalf, do command you, if judgment therein be given, that then under your seal, distinctly and openly, you send a copy of the record and proceedings aforesaid, to the Supreme Court of the Territory of New Mexico, together with this writ, so that you have the same in the said Supreme Court on the first day of the next term thereof, to be begun and held on the first Wednesday after the first Monday in January, A. D. 1903, at Santa Fe, in said Territory, in pursuance of law.

Witness, The Honorable William J. Mills, Chief Justice of the Supreme Court of the Territory of New Mexico, and the seal of said Court, this 4th day of December, A. D. 1902.

(Seal)

J. D. SENA, Clerk.

TERRITORY OF NEW MEXICO.

To the District Court of the Third Judicial District of the Territory of New Mexico, sitting within and for the County of Grant. Greeting:

Because in the record and proceedings, and in the rendition of judgment, in a certain cause lately pending before you, wherein The Territory of New Mexico was plaintiff, and Silver City, Deming and Pacific Railroad Company was defendant, error has intervened, as it is said, to the damage of the said —, and we being willing that such error, if any there be, should be corrected, and speedy justice done in that behalf, do command you, if judgment therein be given, that then under your seal, distinctly and openly, you send a copy of the
 record and proceedings aforesaid, to the Supreme Court of
 107 the Territory of New Mexico, together with this writ, so that you have the same in the said Supreme Court on the first day of the next term thereof, to be begun and held on the first Wednesday after the first Monday in January, A. D. 1903, at Santa Fe, in said Territory, in pursuance of law.

Witness, the Honorable William J. Mills, Chief Justice of the Supreme Court of the Territory of New Mexico, and the seal of the said Court, this 4th day of December, A. D. 1898.

(Seal)

J. D. SENA, Clerk.

Said writs of error are endorsed as follows, to-wit:
Supreme Court, Territory of New Mexico,
January Term, 1903.

No. 984.

The Atchison, Topeka and Santa Fe Railway Co.,
Plaintiff in Error.

vs.

The Territory of New Mexico,
Defendant in Error.

Error to Third Judicial District Court,
Grant County.—Writ of Error.

H. L. WALDO,
R. E. TWITCHELL,
Attorneys for Plaintiff in Error.

Filed in my office December 6, 1902.

JAMES P. MITCHELL, Clerk.
By J. A. SHIPLEY, Deputy.

No. 985.

Supreme Court, Territory of New Mexico.
January Term, 1903.

108 Rio Grande, Mexico and Pacific Railroad Company,
Plaintiff in Error.

vs.

Territory of New Mexico,
Defendant in Error.

Error to Third Judicial District Court,
Grant County.—Writ of Error.

H. L. WALDO,
R. E. TWITCHELL,
Attorneys for Plaintiff in Error.

Filed in my office December 6, 1902.

JAMES P. MITCHELL, Clerk.
By J. A. SHIPLEY, Deputy.

No. 986.

Supreme Court, Territory of New Mexico.
January Term, 1903.

Silver City, Deming and Pacific R. R. Co.,
Plaintiff in Error.

vs.

Territory of New Mexico,
Defendant in Error.

Error to the Third Judicial District Court.
Grant County.—Writ of Error.

H. L. WALDO,
R. E. TWITCHELL,
Attorneys for Plaintiff in Error.

Filed in my office December 6, 1902.

JAMES P. MITCHELL, Clerk.
By J. A. SHIPLEY, Deputy.

Filed in my office December 4, 1902.

JAMES P. MITCHELL, Clerk.
By JOHN LEMON, Deputy.

109 In the District Court, Third Judicial District, County of
Grant and Territory of New Mexico.

Territory of New Mexico,)	
Plaintiff.	)	No. 3425.
versus.)	
The Atchison, Topeka and Santa Fe Railway)	
Company,	)	Consolidated.
)	
Territory of New Mexico,)	
Plaintiff.	)	No. 3457.
versus.)	
The Rio Grande, Mexico and Pacific Railroad)	
Company,	)	Defendant.
)	
Territory of New Mexico,)	
Plaintiff.	)	No. 3458.
versus.)	
The Silver City, Deming and Pacific Railroad)	
Company,	)	Defendant.

Be it remembered, that pursuant to the stipulation of the parties to the above entitled causes, on the trial thereof, a jury having been waived, the following proceedings were had, to-wit:

In the District Court, Third Judicial District, County of Grant, Territory of New Mexico.

Territory of New Mexico,)	
Plaintiff.	)	Nos.
versus.	)	3425, 3457,
The A. T., & S. F. Railway Company,)	3458.
The R. G., M. & P. Railroad Company and)	
The S. C. D. & P. Railroad Company,)	
Defendants,)	

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AGREED STATEMENT OF FACTS.

1.

Within the time required by law, for the years 1895, 1896 and 1897, respectively, all the property of the above named defendants, as well as all the property of the Atchison, Topeka and Santa Fe Railroad Company, situate in the County of Grant and Territory of New Mexico, on the first day of March in each of the said years 1895, 1896 and 1897, was, by the proper representatives of said companies duly listed and returned to the proper assessing officers of the said County of Grant for the purposes of taxation for said years, respectively, copies of which said returns, so made as aforesaid, are hereto attached, marked Exhibits "A," "B," and "C," and made a part of this statement.

2.

The Board of County Commissioners in and for the said County of Grant, sitting as a Board of Equalization, according to law, at the times provided by law, in and during the years 1895, 1896 and 1897, raised the return of the said defendants and the said Atchison, Topeka and Santa Fe Railroad Company, so made as aforesaid, as by the record of the proceedings of the said Board of County Commissioners, in and for the years 1895, 1896 and 1897, more fully appears, which said record is hereto attached and marked Exhibit "D" and made a part hereof.

3.

That within the time required by law, an appeal from the action of the Board of County Commissioners was taken in and during the said years 1895, 1896 and 1897 respectively, by said defendants and each of them and the Atchison, Topeka and Santa Fe Railroad Company, to the Territorial Board of Equalization, which said last named Board, after argument and due consideration of said appeals for the said years respectively, did act thereon and sustain said appeals, as will more fully appear from the certified

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copy of the proceedings of the said Territorial Board of Equalization, held during said years relative to appeals and

fixing the valuation upon all railroad property in the Territory of New Mexico for said years, which said certified copy is hereto attached, marked Exhibit "E" and made a part hereof.

4.

That the Board of County Commissioners and the several assessing officers of the County of Grant were duly notified of the said action of the Territorial Board of Equalization upon the several appeals of the said defendants and the said Atchison, Topeka and Santa Fe Railroad Company.

5.

Within the time required by law, in and during the years 1895, 1896 and 1897, the said Board of County Commissioners made the annual levy upon all property in the said County of Grant, including the property of the said defendants and the Atchison, Topeka and Santa Fe Railroad Company, for the purposes of taxation for each of the said years, respectively, which said assessment and levy for the year 1895 is in the words and figures following, to-wit:

"Territory of New Mexico, County of Grant,
"Office of the Board of County Commissioners.

"At a regular session held on the 8th day of November, A. D. 1895, it was ordered by the Board of County Commissioners of said County, that the preceding assessment roll and each and every assessment therein contained, as originally returned and assessed, or as shown thereon to have been revised and corrected by the Board, be and the same is hereby approved, and that a tax of 6 05-100 mills on the dollar for county purposes and of 2 1-2 mills on the dollar for school purposes and of 3 20-100 mills on the dollar for court fund and 3 50-100 mills for judgment, A. B. Laird, and for various Territorial funds, to-wit:

"For Territorial purposes, 6 mills on the dollar.

112 "For Territorial institution fund, 1 75-100 mills on the dollar.

"For cattle indemnity fund, 50-100 mills on the dollar is hereby levied upon all the property therein returned assessed liable to taxation.

"In witness whereof—

"Attest:

"E. M. YOUNG, Probate Clerk.
(Seal)

"THOMAS FOSTER,
"Chairman of the Board.

"A. J. CLARK.
"J. N. UPTON,
Commissioners."

And which said levy for the year 1896, as appears by the record of the proceedings of said Board of its session held on the 5th day of October, 1896, is in words and figures following, to-wit:

"Territory of New Mexico, County of Grant,

"Office of the Board of County Commissioners.

"At a regular session held on the 5th day of October, A. D. 1896, it is ordered by the Board of County Commissioners of said County: That the preceding assessment roll and each and every assessment therein contained, as originally returned and assessed, or as shown thereon to have been revised and corrected by the Board, be and the same is hereby approved:—

"And that a tax of 6 55-100 mills on the dollar for county purposes and of 2 1-2 mills on the dollar for school purposes, 4 50-100 mills on the dollar for judgments, 3 mills on the dollar for special school precinct No. 11, 3 mills on the dollar for special school precinct No. 24, and of 3 20-100 mills on the dollar for court fund, and 8 25-100 mills for various Territorial funds, to-wit:

"For Territorial purposes, 6 mills on the dollar.

"For Territorial institution fund, 1 75-100 mills on the dollar.

"For cattle indemnity fund, 50-100 mills on the dollar is hereby levied upon all the property therein returned assessed liable to taxation.

"In witness whereof:

"THOMAS FOSTER,
"Chairman of the Board.

"Attest: E. M. YOUNG, Probate Clerk.
(Seal)

"J. N. UPTON,
"A. J. CLARK,
"Commissioners."

And which levy for the year 1897, as appears by the record of the proceedings of said Board of its session held on the 7th day of September, A. D. 1897, is in the words and figures following, to-wit:

"Territory of New Mexico, County of Grant,

"Office of the Board of County Commissioners.

"At a regular session held on the 7th day of September, A. D. 1897, it is ordered by the Board of County Commissioners of said County:—

"That the preceding assessment roll and each and every assessment therein contained, as originally returned and assessed, or as shown thereon to have been revised and corrected by the Board, be and the same is hereby approved:—

"And that a tax of 16 50-100 mills on the dollar for county purposes and 2 1-2 mills on the dollar for school purposes and of 3 20-100 mills on the dollar for court fund, and 12 30-100 mills for various territorial funds, to-wit:

"Sheep and goat sanitary, 1 50-100 mills per head.

"For Territorial purposes, 7 mills on the dollar.

"For Territorial institutions, 2 50-100 mills on the dollar.

"For special tax for the 49th fiscal year, 1 1-4 mills on the dollar.

"For cattle indemnity fund, 50-100 mills on the dollar.

"For Capitol contingent sinking fund, 1-2 mill on the dollar.

"And a further special tax of a mill on the dollar of the appraised value of all cattle.

"For the support of the public schools a levy is made by me in conformity with 'An Act to establish public schools in the Territory of New Mexico, approved February 12, 1891, of 2 50-100 of one mill on the dollar upon all taxable property in the Territory, to be collected and paid into the different county treasuries as provided by law.

"In witness whereof:—

(Seal)

"A. J. CLARK,

"Chairman of County Commissioners.

"MARTIN MAHER,

"H. J. HICKS,

"Commissioners.

"Attest: E. M. YOUNG, Probate Clerk, etc."

6.

That the only assessment against the property of the said defendants, or that of the Atchison, Topeka and Santa Fe Railroad Company, or any or either of them, appearing upon the assessment roll or tax roll or list of the County of Grant, in and for the years 1895, 1896 and 1897, respectively, is in the words and figures, as follows, to-wit:

Name of property

Owner. Atchison, Topeka & Santa Fe R. R.

Description

Real Estate. Roadbed, track, right-of-way, rolling stock, etc.

Total value land and improvements—

R. G. M. & P.

10.98 miles main line and sidings.....\$ 16,175

6 miles telegraph..... 5,549

S. C., D. & P.

48.29 miles main line..... 313,885

1.67 miles sidings..... 3,340

48.29 miles telegraph..... 1,207

Value Personal

Property..... 16,555

Fixed by

County Commissions..... 435,070

Final Assessed Value Pd.....\$423,061

Territorial

115	Territorial purposes.....	2,610 42	
	Territorial institutions...	761 37	
Tax			
School		1,087 68	
County	General	1,087 68	
	Court fund	1,392 22	
	Judgment	1,522 75	
	Interest bonds.....	1,087 68	
	Interest bonds	152 27	
	C. E.	27 54	
	R.	43 50	
	Special School		
	Precinct 3	20 00	
Tax	Special School		
	Precinct 11	635 27	
Amount due			
January 1st, 1896.....			5,330 94
Amount due			
July 1st, 1896.....			5,330 94
			<hr/>
	Total tax		10,661 88

Amount paid on valuation as returned by defendants
and sustained by the Territorial Board of Equal-
ization:

January 1, 1896.....	4,452 48
July 1, 1896.....	4,452 00

1896.

Name of Property Owner—Atchison, Topeka and Santa Fe Rail-
road Company.

Real Estate.	Value of Land.	Total value Land and Im- provements.
Rio Grande, Mexico and Pacific—		
1,098 miles of main track at \$6,500....	\$71,370 00	
7.10 miles side track at \$2,500.....	17,750 00	
6 miles telegraph line.....	549 00	
	<hr/>	\$89,669 00

116	Silver City, Deming & Pacific—		
	48.29 miles main track at \$6,500..	313,885 00	
	2.14 miles side track at \$2,500.....	5,350 00	
	48.29 miles telegraph line.....	1,177 25	
		<hr/>	320 442 25

Rio Grande, Mexico & Pacific—

Car repair shops, Deming.....	25 00
Section house, etc.....	400 00
Tool house	40 00
Depot and hotel, 1-2 interest in.....	3,750 00
Freight depot, etc.....	1,250 00

Track scales	100 00	
Baggage room	150 00	
		5,715 00
Tenements Nos. 6 to 10—Whitney.....	600 00	
Coal chutes and bins.....	700 00	
Ice house	150 00	
Pump house	40 00	
Car repair shop	75 00	
Tank	300 00	
Tool house.....	40 00	
Master mechanic's office.....	125 00	
Stock yards	300 00	
Stone engine house.....	1,800 00	
Turntable & oil house	400 00	
		4,530 00
Tool house, section house, etc., at Crawford.	290 00	
Tank and Windmill.....	400 00	
		690 00
Depot, etc., Whitewater.....	300 00	
Depot, etc., Hudson.....	325 00	
		550 00
Ice house, etc.....	250 00	
Dwelling, etc., Silver City.....	250 00	
Tool house	40 00	
117 Eng. Ho. Tab. & Coal bins.....	900 00	
Depot, etc.....	600 00	
Hose Hs. & Water tank.....	310 00	
		2,100 00
Stock yards	250 00	
Tank & windmill, stock yds.....	400 00	
		650 00
Value of personal property—249 21 6		
14 55 Fixed by Assessor.....	\$426,185 25	
Fixed by Territorial Board of Equalization.....	\$426,185 25	
Territorial purposes	\$2,557 11	
Territorial institutions.....	745 82	
School	1,005 47	
General	1,005 47	
Court fund	1,363 79	
Judgment	1,917 83	
Interest on bonds, 1889.....	1,278 56	
Interest on bonds, 1883.....	149 16	
Contingent expenses	213 09	
Road	42 62	
Bounty	42 62	
Special school	615 35	
Total		11,056 89

Amount due January 1, 1897.....	5,528 45
Amount due July 1, 1897.....	5,528 44
Amount paid January 1, 1897, Less judgment fund tax.....	4,569 53
Amount paid July 1, 1897 Less judgment fund tax	4,569 53

1897.

Name of Property Owner.—Atchison, Topeka and Santa Fe Railroad Company.

Real Estate.—Rio Grande, Mexico & Pacific, Silver City, Deming & Pacific.

Description.—Same as that found in return.

	Valuation fixed by County Commissioners	\$432,021 45
118	Territorial purposes	3024.1502
	Territorial institutions	885.6440
	Special tax	540.0268
	Capitol contingent sinking fund.....	216.0107
	School	1080.0536
	General	1728.0858
	Court fund	1382.4686
	Judgment	1944.0965
	Interest on bonds, 1883	1944.0965
	Interest on bonds, 1889.....	172.8086
	Interest on bonds, 1889.....	1123.2558
	Roads	216.0107
	Special school	632.2926
		<hr/> 14889.0004
	Amount due January 1, 1898.....	7444.5002
	Amount due July 1, 1898.....	7444.5002

January 1st, 1898. Payment of \$4,953.64 on valuation 329,331.45 as returned by said company less county judgments.

July 1st, 1898. Payment of \$4,953.64 on valuation as returned by said Company 329,331.45 less County judgments.

7.

That within the time required by law, prior to the attaching of any penalty the said defendants and the said Atchison, Topeka and Santa Fe Railroad Company paid to the Collector of Grant County, upon the valuation returned by said Companies all taxes levied and assessed against said Companies or any or either of them, in and by the levy of the Board of County Commissioners made on the 8th day of November, A. D. 1895, to-wit: The sum of \$8,904.96, except

the sum of \$1,522.75, which said last named sum was a tax levied for and on account of a certain judgment against the Board of County Commissioners of the County of Grant and in favor
119 one, A. B. Laird, for the payment of which said judgment, the said Board of County Commissioners did, at the time of the making of the regular annual levy on the 8th day of November, 1895, make a special levy of three and one-half mills upon all the taxable property in said county and as contained in the assessment roll of said County, approved November 8th, 1895.

And the amount in dispute between plaintiff and said defendants and the said Atchison, Topeka and Santa Fe Railroad Company, for the said year of 1895 is the sum of \$1,480.71, levied on account of a judgment against said County of Grant, rendered in favor of Andrew B. Laird, on the return made by the defendants, in the sum of \$276.21, total taxation on the valuation of \$12,011.00, the amount of raise in valuation made by the said Board of County Commissioners on the property described in Schedules 2 and 3 of the property returns of the defendants for the year 1895.

8.

That the said judgment against the Board of County Commissioners of the County of Grant, in favor of the said A. B. Laird, was rendered by the District Court in and for the 3rd Judicial District within and for the said County of Grant, and was for and on account of certain claims allowances and approved accounts belonging to the said A. B. Laird, against the said County of Grant and were due him for services rendered, supplies furnished and materials supplied to the said County of Grant in and during years prior to the date of filing of the suit in which the said judgment was rendered, all of which said claims, allowances and approved accounts were a part of the current general expense of the said County of Grant during the years in which the same were ordered and incurred, and that the said judgment and the claims and allowances did not arise upon nor include any charge against the said County of Grant for or on account of any bonded debt of said County nor upon any coupon of any bond theretofore issued by the said County of Grant, nor
120 for any interest upon said bond or coupon, but said judgment was simply and solely rendered for and on account of claims, allowances and approved accounts of claims due and owing said A. B. Laird for services rendered of supplies and materials furnished by him to the said County of Grant in and during a period prior to the filing of the suit in which the said judgment was rendered.

9.

That within the time required by law and prior to the attaching of any penalty, the said defendants and the said Atchison, Topeka and Santa Fe Railroad Company, paid to the collector of the County

of Grant, upon a valuation of the property of said companies as fixed by the Territorial Board of Equalization, to-wit: A valuation of \$426,185.25, all taxes levied and assessed against said companies or any or either of them in and by the levy of the Board of County Commissioners made on the 5th day of October, 1896, to-wit: The sum of \$9,139.06, except the sum of \$1,917.83, which said last named sum was a tax levied for and on account of and for the payment of certain judgments against the Board of County Commissioners of the County of Grant and in favor of certain judgment creditors of the said County of Grant, for the payment of which said judgments, the Board of County Commissioners did, at the time of the making of the regular annual levy on the 5th day of October, A. D. 1896, make a special levy of four and one-half mills upon all the taxable property in said county and as contained in the assessment roll of said county, approved October 5th, 1896.

10.

That the said judgments against the Board of County Commissioners of the County of Grant, and each of them, in favor — the said judgment creditors were rendered by the District Court in and for the 3rd Judicial District sitting within and for the County of Grant, and were each for and on account of certain claims, allowances and approved accounts, the property of the said creditors, against the said County of Grant, and were claims, allowances and approved accounts theretofore made and issued to various people by the said Board of County Commissioners for and on account of services rendered and supplies and materials furnished to the said County of Grant, in and during certain years prior to the date of the filing of the suits in which the said judgments were rendered, all of which said claims, allowances, approved accounts and judgments were a part of the current general expense of the said County of Grant during the years in which the same were ordered and incurred and that the said judgments nor any or either of them, did not arise upon nor include any charge against the said County of Grant for or on account of any bonded debt of the said County nor upon any coupon or any bond theretofore issued by the said County of Grant nor for any interest upon said bond or coupon, but the said judgments were simply and solely rendered for and upon account of claims, allowances and approved accounts due and owing to the said creditors for services rendered or supplies or materials furnished to the said County of Grant in and during a period prior to the filing of the suits in which the said judgments were rendered.

11.

That within the time required by law and prior to the attaching of any penalty, the said defendants paid to the collector of the County of Grant upon the valuation returned by the said companies a valua-

tion of \$329,331.45 all taxes levied and assessed against said companies, or any or either of them, in and by the levy of the Board of County Commissioners, made on the 7th day of September, 1897, to-wit: The sum of \$9,907.28 except the sum of \$1,944.0965, which said last named sum was a tax levied upon an assessment made by the Board of County Commissioners of said county in the sum of \$432,021.45, for and on account of and for the payment of
 122 certain judgments against the Board of County Commissioners of the County of Grant and in favor of certain judgment creditors of said county for the payment of which said judgments the Board of County Commissioners did, at the time, of the making of the regular annual levy, on the 7th day of September, 1897, and included in the levy for county purposes, which latter was sixteen and one-half mills upon the dollar, make a levy upon all the taxable property in said county, and as contained in the assessment roll of said county, approved September 7th, 1897.

And that the amount in dispute between the plaintiff and defendants and the said Atchison, Topeka and Santa Fe Railroad Company, is the sum of \$1,481.96, levied on account of the aforesaid judgments on the valuation of property paid on by the defendants, and the sum of \$3,283.14, total taxation on the valuation \$96,580.00, the amount of raise by said Board of County Commissioners in the valuation of the property described in Schedule No. 1 of defendant's property return for the said year, and the sum of \$216.64, total taxation on the valuation \$6,110.00, the amount of raise by the said Board of County Commissioners in the valuation on the property described in Schedules Nos. 2 and 3 of defendant's property return for said year.

12.

That the said judgments against the Board of County Commissioners of the County of Grant, and each of them, in favor of the said judgment creditors, were rendered by the District Court in and for the 3rd Judicial District, sitting within and for the County of Grant, and were each for and on account of certain claims, allowances and approved accounts against the County of Grant, and were claims, allowances and approved accounts theretofore made and issued to various people by the said Board of County Commissioners for and furnished to the said County of Grant in and during
 123 certain years prior to the date of the filing of the suits in which the said judgments were rendered, all of which said claims, allowances, approved accounts and judgments were a part of the current general expenses of the said County of Grant during the years in which the same were ordered and incurred and that the said judgments, nor any or either of them, did not arise upon nor include any charge against the said County of Grant for or on account of any bonded debt of the said county nor upon any coupon of any bond theretofore issued by the said county nor for any interest upon

said bond or coupon, but the said judgments were simply and solely rendered for and on account of claims, allowances and approved accounts due and owing the said creditors by the said county for services rendered or supplies and materials furnished to the said County of Grant in and during the period prior to the filing of the suits in which the said judgments were rendered.

13.

That each and every act of said Territorial Board of Equalization, with reference to the valuation of the property of said defendants, as shown by the said Exhibit "E" was made pursuant to the provisions of an act of the Legislative Assembly of the Territory of New Mexico entitled "An Act Providing for a Board of Equalization and prescribing its duties, approved February 23, 1893, and the several acts amendatory thereof and supplemental thereto.

14.

That at the meeting of the Board of County Commissioners of the said County of Grant, sitting as a board of equalization, held on the day of A. D. 1897, the said Board of County Commissioners raised the return of the said defendants from a total valuation of \$329,331.45 to a total valuation of \$432,321.45, a part of which raise in valuation consisted in a raise of \$2,000.00 per mile for 48.29 miles of track of the said defendants, to-wit: The Silver City, Deming and Pacific Railroad, or
 124 a total raise upon track of \$96,580.00 and upon superstructures, buildings, etc., of \$6,110.00.

That within the time required by law an appeal was taken and allowed from the aforementioned action of the said Board of County Commissioners of the County of Grant in making said raise, by the said defendants to the Territorial Board of Equalization, by which body said appeal was duly sustained and allowed and the valuation fixed at the valuations returned by the said defendants for the said year, as appears from the order of the said Board of Equalization of the Territory, found in Exhibit "E" hereto attached, and which order is as follows, viz:

"SANTA FE, N. M., September 20, 1897.

In the matter of the appeal of the A., T. and S. F. R. R. from Grant County, New Mexico, said appeal was continued to the January meeting of this Board, on account of the inability of the District Attorney for said County to attend such meeting, who desired to be heard in the case."

"SANTA FE, NEW MEXICO, January 10, 1898.

Afternoon Session, 2 P. M.

The Board met pursuant to adjournment, all members present as this morning.

In the matter of the appeal of the Silver City, Deming and Pacific Railroad of Grant County, New Mexico, which was continued for the September meeting of 1897, after receiving the opinion of the Solicitor General of New Mexico and carefully considering all evidence presented to said Board, the Board sustains the appeal of the A., T. and S. F. R. R. and places the value of said branch line (the same having been shown by proof brought before this Board that the same is a branch line and shall be classified as such) and the Board instructs the Assessor of said County to correct his tax roll in accordance with such finding."

15.

That the levy made by the Board of County Commissioners of Grant County for the year 1895 for general county purposes was 6 05-100 mills exclusive of the levy of 3 50-100 mills for the 125 payment of the judgment of A. B. Laird.

That the levy made by the Board of County Commissioners of Grant County for the year 1896 for general county purposes was 6 55-100 mills, exclusive of the levy of 4 50-100 mills for the payment of judgments.

That the levy made by the Board of County Commissioners of Grant County for the year 1897 for general county purposes was 16 50-100 mills inclusive of the levy for the payment of judgments.

16.

That the assessment and tax rolls of the County of Grant for the years 1895, 1896 and 1897, containing the assessments and taxes levied against the property of the defendants and the Atchison, Topeka and Santa Fe Railroad Company, as appears herein, were and are the assessment and tax rolls of said county for said years, made out by the assessor, approved by the Board of County Commissioners and delivered to and received by the collector of taxes of the said county in and for said mentioned years 1895, 1896 and 1897.

17.

That the total property valuation, as shown by the assessment rolls of the said County of Grant for the year 1892 is the sum of \$4,222,113.00.

That the amount of the levy for the general fund, at the rate of 2 1-2 mills is the sum of \$10,555.28, which said last named sum, together with the sum of \$1,790.16, levied as special deficit fund in the year 1894 to cover the unpaid indebtedness of said County of

Grant for the year 1893, formed the general fund applicable to the payment of county expenses for the year 1893.

That of said fund there was collected in the said year 1893, for the payment of county expenses, the sum of \$7,793.79, leaving a deficit of \$4,551.65 uncollected in the general fund in the year 1893.

That the total property valuation, as shown by the assessment rolls for the said County of Grant for the year 1893 is the sum of \$4,129,467.00.

126 That the amount of levy for the general fund, at the rate of 2 1-2 mills, is the sum of \$10,323.66, which said last named sum together with the sum of \$1,724.59, levied in the year 1895 as a special deficit, to cover the indebtedness unpaid in the year 1894, formed a general fund applicable to the payment of county expenses for the year 1894, a total amount applicable to such indebtedness of \$12,113.82, of which sum there was duly collected in the year 1894, from general fund, and, in the year 1896, for the special deficit fund aforesaid, the sum of \$8,328.75, leaving a deficit of \$3,719.50 uncollected in the general fund in the year 1894.

That the total property valuation, as shown by the assessment rolls of 1894 for the said County of Grant is the sum of \$3,580,232.00.

That the amount of levy for the general fund, at the rate of 2 1-2 mills is the sum of \$8,950.58, which said last named sum together with the sum of \$1,667.25, levied in the year 1895 as a special deficit to cover the indebtedness unpaid in the year 1894, formed a general fund applicable to the payment of county expenses for the year 1895, of which sum there was collected in the year 1895 from the general fund and in the year 1897, in the special deficit fund aforesaid, the sum of \$7,122.07, leaving a deficit of \$3,495.76 uncollected in the general fund in the year 1895.

That the total property valuation, as shown by the assessment rolls of said County of Grant for the year 1895 is the sum of \$3,449,180.00.

That the amount of levy for the general fund, at the rate of 2 1-2 mills, is the sum of \$8,622.95.

That there was no special deficit fund levied in said County of Grant for the said year, and that the said sum of \$8,622.95 formed the general fund applicable to the payment of county expenses for the year 1896.

That of said fund there was collected in the said year 1896 the sum of \$6,285.46, leaving a deficit of \$2,337.49 uncollected in the general fund in the year 1896.

127 That the total property valuation as shown by the assessment rolls of said County of Grant for the year 1896 is the sum of \$3,334,488.00.

That the amount of the levy for the general fund, at the rate of 2 1-2 mills is the sum of \$8,336.22, which said last mentioned sum formed the general fund applicable to the payment of county expenses for the year 1897.

That of said fund there was collected in the said year 1897, for the payment of county expenses, the sum of \$6,300.58, leaving a deficit of \$2,035.64 uncollected in the general fund for the year 1897.

18.

That the amount of the judgment aforesaid rendered in favor of Andrew B. Laird against the said County of Grant was the sum of \$10,434.34, and the judgment levy made by the said Board of County Commissioners in the year 1895 was made for the payment of the said judgment.

That the judgment made in the year 1896 by said Board of County Commissioners was made for the payment of judgments rendered against said County of Grant in favor of the following named persons for the following amounts, respectively, to-wit:

Charles G. Bell.....	\$ 599.57
Henry S. Gillett et al.....	1,838.01
Silver City National Bank.....	11,221.73

A total sum of.....\$13,659.31

20.

That the judgment levy made in the year 1897 by said Board of County Commissioners was made for the payment of judgments rendered against said County of Grant in favor of the following named persons for the following amounts, respectively, to-wit:

Baylor Shannon.....	\$ 6,397.60
Moorman and Company.....	3,643.12
Kate Thomas.....	436.58
128 Seaman Field.....	543.62

A total sum of.....\$11,020.92

21.

That all of the indebtedness upon which the said judgments mentioned in Paragraphs 18, 19 and 20 hereof were obtained accrued on account of the current expenses of said county during the years 1893 to 1897 inclusive and were payable out of the general fund of said County of Grant for the said years.

22.

That such indebtedness accrued on account of:

First: Salaries of the Probate Clerks, Probate Judges, County Commissioners, County Treasurer, District Attorney, County Jailers and Guards in the County Jail.

Second: Expenses of regular Territorial elections as fixed by law.

Third: Fees of the Justices of the Peace for the various precincts of said county; mileage of Constables for the various precincts; mile-

age for Sheriffs of said county and for feeding prisoners in the county jail.

Fourth: Postage and Printing supplies to the County of Grant.

Fifth: Transportation of insane persons committed to the Territorial asylum by the District Court of said County.

Sixth: Miscellaneous expenses incurred by said county in the management and discharge of its municipal affairs.

23.

That the amount of indebtedness so incurred by said County of Grant, forming a part of said judgments and of the levies made for the payment of said judgments under the several classes of Paragraph 22 hereof is as follows, to-wit:

	Class 1	\$ 9,004.90
129	Class 2	781.51
	Class 3	15,790.85
	Class 4	3,309.81
	Class 5	362.32
	Class 6	5,865.18

24.

That the percentage of the levy made in 1895 to cover the indebtedness under

Class 1, Paragraph 22 is .....	.08647
Class 2, Paragraph 22 is .....	.00000
Class 3, Paragraph 22 is .....	.83242
Class 4, Paragraph 22 is .....	.05758
Class 5, Paragraph 22 is .....	.01527
Class 6, Paragraph 22 is .....	.00826

That the percentage of the levy made in the year 1896 to cover the indebtedness under

Class 1 is .....	.49889
Class 2 is .....	.01735
Class 3 is .....	.05732
Class 4 is .....	.10747
Class 5 is .....	.00000
Class 6 is .....	.31897

That the percentage of the levy made in the year 1897 for the payment of the indebtedness under

Class 1 is .....	.11686
Class 2 is .....	.04942
Class 3 is .....	.57365
Class 4 is .....	.11261
Class 5 is .....	.01876
Class 6 is .....	.12868

25.

That the amount of the indebtedness for the year 1893 covered into the aforesaid judgments, for which the levies for the years 1895, 1896 and 1897 respectively, were made, is the sum of \$712.41, and that the deficit as heretofore shown in the general fund for that year was the sum of \$4,551.65, showing an excess in the levy
130 for the general fund for the said year above the indebtedness covered by judgments of \$3,730.24.

That the amount of the indebtedness for the year 1894 covered in the aforesaid judgments, for which said levies were made is the sum of \$15,597.73 and that the deficit as heretofore shown in the general fund for that year was the sum of \$3,719.50, showing a deficit in the general fund for that year above the indebtedness covered by said judgments of \$11,878.23.

That the amount of the indebtedness for the year 1895 covered in aforesaid judgments for which said levies were made is the sum of \$7,079.75 and that the deficit as heretofore shown in the general fund for that year was the sum of \$3,495.76, showing deficit in the general fund for that year above the indebtedness covered by said judgments of \$3,583.99.

That the amount of the indebtedness for the year 1896 covered in the aforesaid judgments for which said levies were made is the sum of \$11,218.98 and that the deficit as heretofore shown in the general fund for that year was the sum of \$2,337.49, showing a deficit in the general fund for that year above the indebtedness covered by said judgments of \$8,880.49.

That the amount of indebtedness for the year 1897 covered and the aforesaid judgments for which said levies were made is the sum of \$505.70, and that the deficit as heretofore shown in the general fund for that year was the sum of \$2,035.64, showing an excess in the general fund above the indebtedness covered by said judgments of \$1,529.94.

That the Territorial Board of Equalization, at their regular meetings held for that purpose in and during said years 1895, 1896 and 1897, fixed the valuations upon all railroad property in the Territory of New Mexico, and that Exhibit "E" hereto attached, is a correct copy of the proceedings of the said Board in that behalf.

That within the time required by law the defendants duly appeared from the decision of the Board of County Commissioners of the County of Grant in raising the valuation placed
131 upon defendant's property in said County in and for the year 1897, which said appeals are hereto attached and made a part hereof, marked Exhibit "F," which appeals were acted upon by the Territorial Board of Equalization as stated in Paragraph 14 hereof.

Territory of New Mexico,)
 County of Grant.)
 In the District Court.)

The within and foregoing statements of facts, with the several Exhibits thereto attached, in the above entitled cases is hereby agreed to be true and correct, and it is further agreed that a jury may be waived and that the Court may try and pass upon the issues in said cases upon the said agreed statement of facts and the several Exhibits there to attached.

(Signed)

WILLIAM H. H. LLEWELLYN,
 District Attorney.

(Signed)

A. H. HARLLEE,

(Signed)

R. P. BARNES,

Attorneys for Plaintiff.

(Signed)

R. E. TWITCHELL,

Attorney for Defendants.

EXHIBIT "A."

1895.

Schedules Showing

The personal property belonging to the Rio Grande, Mexico and Pacific Railroad, the Silver City, Deming and Pacific Railroad, corporations existing under the laws of the Territory of New Mexico, and leased lines of the Atchison, Topeka and Santa Fe Railroad Company in Grant County, Territory of New Mexico, on the first day of March, 1895.

Schedule No. 1.

Showing roadbed, track, telegraph line, franchises, etc., in Grant County.

132 The Rio Grande, Mexico and Pacific Railroad.—

	Valuation.
Main track, 10.98 miles.....	\$71,370
Side track, 6.47 miles.....	16,175
Telegraph, 6 wires.....	549

\$88,094

Silver City, Deming and Pacific Railroad.—

	Valuation.
Main track, 48.29 miles.....	\$313,885
Sidetrack, 1.67 miles.....	3,340
Telegraph, 1 wire.....	1,207 25

Total.....\$318,432 25

Schedule No. 2.

Showing buildings, platforms, tanks, etc., in Grant County.
The Rio Grande, Mexico and Pacific Railroad.—

Deming.—

Car repair shop, 12x14, wood.....	\$ 50 00	
Section house, 18x30, wood.....	300 00	
Tool house, 12x16, wood.....	40 00	
Hotel, etc., 1-2 interest, 40x162, wood.....	3,000 00	
Freight depot and platform, 30x175, wood..	1,600 00	
Scales, 36' wood.....	125 00	
Baggage room, 1-2 int., 27x49, wood.....	150 00	
		\$ 5,265 00

Whitney.—

Tenements, Nos. 6 to 10, each, 18x28, wood..	\$ 600 00	
Coal chute and bins, 32x37, wood.....	1,100 00	
Ice house, 24x49, wood.....	175 00	
Pump house, 20x30, wood.....	150 00	
Car repair shop, 15x30, wood.....	75 00	
Tank, 24' wood.....	300 00	
Tool house, 12x16, wood.....	40 00	
133 M. M. office, 16x32, wood.....	125 00	
Stock yards, 100x305, wood.....	450 00	
Engine house and turntable, 8 stalls, stone..	3,000 00	
Oil house, 20x28, stone.....	400 00	
		\$ 6,405 00
Total.....		\$ 11,680 00

Silver City, Deming and Pacific Railroad—

Crawfords.—

Tool house, 12x16, wood.....	\$ 40 00	
Section house, 12x32, wood.....	200 00	
Tank and windmill, 20' wood.....	250 00	
		\$ 490 00

Hudson's.—

Depot and platform, 20x52, wood.....	200 00	
		\$ 200 00

Whitewater.—

Depot and platform, 25x40, wood.....	300 00	
Section house, 16x32, wood.....	200 00	
		\$ 500 00

Silver City.—

Two tanks and windmill, 20' wood.....	750 00	
Depot platform and tool house, 24x80, 12x16, wood.....	840 00	
Coach platform and coal bin, 6x141, 8x24, wood.....	105 00	

Stock yards and hose house, 100x229, 4x6, wood.....	610 00	
Engine house and turntable, 2 stalls, 54', wood.....	925 00	
	<hr/>	\$ 3,230 00
Total.....		\$ 4,420 00

Schedule No. 3.

Showing the value of track, bridge and building and water service, tools, office and station furniture, fuel, shop machinery and tolls, hand and push cars, material and supplies on hand, and
134 all other personal property in Grant County.

The Rio Grande, Mexico and Pacific Railroad.

Deming—

Value of station.....	\$ 324 00	
Total	<hr/>	\$ 324 00

Silver City, Deming and Pacific Railroad.

	Value of station.
Deming	\$ 14 00
Crawfords	17 00
Hudson's	11 00
Whitewater	21 00
Silver City.....	48 00
Total	<hr/>
	\$ 111 00

No return was made to Silver City, but property was assessed at \$30,065.

EXHIBIT "B."

1896.

Schedule Showing

The personal property belonging to the Rio Grande, Mexico and Pacific Railroad, the Silver City, Deming and Pacific Railroad, corporations existing under the laws of the Territory of New Mexico and leased lines of the Atchison, Topeka and Santa Fe Railroad Company, in Grant County, Territory of New Mexico, on the first day of March, 1896.

Schedule No. 1.

Showing roadbed, tracks, franchises, telegraph, etc., in Grant County.

The Rio Grande, Mexico and Pacific Railroad.—

	Valuation.
Main track, 10.98 miles.....	\$ 71,370 00
Sidetrack, 7.10 miles.....	17,750 00
Telegraph 6 wires.....	549 00
	<hr/>
	\$ 89,669 00

135 Silver City, Deming and Pacific Railroad.—

	Valuation.
Main track, 48.29 miles.....	\$313,885 00
Sidetrack, 2.14 miles.....	4,280 00
Telegraph, 1 wire.....	1,207 25
	<hr/>
	\$319,372 25

Schedule No. 2.

Showing depots, tanks, buildings, etc., in Grant County.

The Rio Grande, Mexico and Pacific Railroad.—

Deming.—

Car repair shop, 12x14.....	\$ 25 00
Section house, etc., 18x30.....	400 00
Tool house, 12x16.....	40 00
Depot and hotel, 1-2 interest, 40x162.....	3,750 00
Freight depot, 1-2 interest, 30x175.....	1,250 00
Track scales, 1-2 interest, 60 tons.....	100 00
Baggage room, 1-2 interest, 27x49.....	150 00
	<hr/>
	\$5,715 00

Whitney.—

Tenements Nos. 6 to 10 each, 18x28.....	\$ 600 00
Coal chute and bins, 31x37.....	700 00
Ice house, 24x49.....	150 00
Pump house, 20x30.....	40 00
Car repair shop, 15x30.....	75 00
Tank, 24'.....	300 00
Tool house, 12x16.....	40 00
Master mechanic's office, 16x32.....	125 00
Stock yards, 100x305.....	300 00
Stone engine house, 8 stalls, 52'.....	1,800 00
Stone oil house, 20x28.....	400 00
	<hr/>
	\$4,530 00

Total\$10,245 00

Silver City, Deming and Pacific Railroad.—

Crawfords.—

Tool house, 12x16.....	\$ 40 00
------------------------	----------

136 Total\$3,665 00

East of Silver City—

Stock yards, 100x229.....	\$ 250 00
Tank and windmill, 20'.....	400 00
	<hr/>
	\$ 650 00

Total\$4,315 00

Schedule No. 3.

Showing the value of track, bridge and water service, tools, office and depot furniture, shop machinery and tools, hand and push cars, fuel on hand, material and supplies and all other personal property in Grant County.

The Rio Grande, Mexico and Pacific Railroad.—

Deming—Value of station.....	\$ 324 00	
		\$ 324 00

Silver City, Deming and Pacific Railroad.—

Crawfords—Value of station.....	\$ 21 00	
Section house, etc., 16x32.....	250 00	
Tank and windmill, 20 '.....	400 00	
		\$ 690 00

Hudson's.—

Depot, etc., 20x52.....	\$ 325 00	
		\$ 325 00

White Water.—

Depot, etc., 25x40.....	\$ 300 00	
Section house, etc., 16x32.....	250 00	
		\$ 550 00

Silver City.—

Dwelling, etc., brick, 16x123.....	\$ 250 00	
Tool house, 12x16.....	40 00	
Engine house, 2 stalls and turntable, 54 ' and coal bin, 6x27.....	900 00	
Depot, etc., 24x80.....	600 00	
Hose house, 4x6.....	10 00	
Water tank, 20 '.....	300 00	
		\$2,100 00

137 Whitewater—Value of station.....	14 00	
Hudson's—Value of station.....	6 00	
Silver City—Value of station.....	55 00	
Total.....		\$ 96 00

Statement of personal property located in the City of Silver City, Grant County, New Mexico, on May 1, 1896, returned for the purpose of assessment and taxation.

	Valuation.
2.03 miles of main track at \$6,000 per mile.....	\$12,180 00
2.03 miles telegraph line at \$25 per mile.....	50 00
0.98 miles of sidetrack at \$2,500 per mile.....	2,450 00
Dwelling, etc., brick, size 16x123 feet.....	250 00
Section, tool house, wood, size 12x16 feet.....	40 00
Engine house, 2 stalls, wood, and turntable, 54 ft. long and coal bin, wood, size 8x27 ft.....	900 00
Depot, platforms, etc., wood, size 24x80 feet.....	600 00
Hose house, wood, size 4x6 feet.....	10 00

Water tank, wood, size 16x20 feet.....	300 00
Tools, furniture, material and other property.....	55 00
Total value of all personal property.....	<u>\$16,835 00</u>

EXHIBIT "C."

1897.

Schedules Showing

The personal property belonging to the Rio Grande, Mexico and Pacific Railroad, the Silver City, Deming and Pacific Railroad, corporations existing under the laws of the Territory of New Mexico, and leased lines of the Atchison, Topeka and Santa Fe Railroad Company, in Grant County, Territory of New Mexico, on the first day of March, 1897.

Schedule No. 1.

Showing roadbed, tracks, franchises, telegraph, etc., in Grant County.

The Rio Grande, Mexico and Pacific Railroad.—

138	Valuation.
Main track, 10.98 miles.....	\$ 71,370 00
Sidetrack, 7.10 miles.....	17,750 00
Telegraph, 4 wires.....	439 20
Total.....	<u>\$89,559 20</u>

Silver City, Deming and Pacific Railroad.—

	Valuation.
Main track, 48.29 miles.....	\$217,305 00
Sidetrack, 2.14 miles.....	5,350 00
Telegraph, 1 wire.....	1,207 25
Total.....	<u>\$223,862 25</u>

Schedule No. 2.

Showing depots, tanks, buildings, etc., in Grant County.

The Rio Grande, Mexico and Pacific Railroad.—

Deming.—

Car repair shop, 12x14.....	\$ 25 00
Section house, etc., 18x30.....	400 00
Tool house, 12x16.....	40 00
Depot, hotel, etc., 1-2 interest, 40x162.....	4,500 00
Freight depot, 1-2 interest, 30x175.....	1,500 00
Track scales, 1-2 interest, 60 tons.....	100 00
Baggage room, 1-2 interest, 27x49.....	300 00
	<u>\$6,865 00</u>

Whitney.—

Coal chute and bins, 12 pockets.....	\$ 700 00	
Ice house, 24x49.....	150 00	
Pump house and coal bin, 20x30.....	40 00	
Car repair shop, 15x30.....	75 00	
Tank, 24'.....	300 00	
Tool house, 12x16.....	40 00	
Master mechanic's office, 16x32.....	125 00	
Stock yards, 190x305.....	350 00	
Engine house, turntable, 8 stalls, 54'.....	1,800 00	
Oil house, 20x28.....	400 00	
		\$3,980 00
139 Total.....		\$10,845 00

Silver City, Deming and Pacific Railroad.—

Crawfords.—

Tool house, 12x16.....	\$ 40 00	
Section house, etc., 16x32.....	250 00	
Tank and windmill, 20'.....	400 00	
		\$ 690 00

Hudson.

Depot, etc., 20x52.....	\$ 325 00	
		\$ 325 00

Whitewater.—

Depot, etc., 25x40.....	\$ 300 00	
Section house, etc., 16x32.....	250 00	
		\$ 550 00

Silver City.—

Dwelling, etc., 16x123.....	\$ 250 00	
Tool house, 12x16.....	40 00	
Engine house, 2 stalls, turntable 54' coal bin, 8x27.....	900 00	
Depot, etc., 24x80.....	600 00	
Hose house, 4x6.....	10 00	
		\$1,800

East of Silver City.—

Stock yards, 100x229.....	\$ 250 00	
Tank and windmill, 20'.....	400 00	
		\$ 650 00

Total.....\$4,015 00

Schedule No. 3.

Showing the value of track, bridge, building and water service, tools, office and depot furniture, shop machinery and tools, hand and push cars, fuel on hand, material and supplies and all other personal property.

Rio Grande, Mexico and Pacific Railroad.—

Deming—Value of station.....	\$ 263 00
Total.....	\$263 00

140 Silver City, Deming and Pacific Railroad.—

Crawfords—Value of station.....	\$ 19 00
Whitewater—Value of station.....	16 00
Hudson—Value of station.....	5 00
Silver City—Value of station.....	47 00
Total	\$ 87 00

Silver City, Deming and Pacific Railroad.—

Statement of personal property located in the City of Silver City, Grant County, New Mexico, on May 1, 1897, returned for the purpose of assessment and taxation.

	Valuation.
2.03 miles of main track, at \$4,500 per mile.....	\$ 9,135 00
2.03 miles of telegraph line at \$25 per mile.....	50 00
0.98 miles of sidetrack at \$2,500 per mile.....	2,450 00
Dwelling, etc., size 16x123 feet.....	40 00
Engine house, 2 stalls, wood, turntable, 54 feet long, and coal bin, wood, size 8x27 feet.....	900 00
Depot, platforms, etc., wood, size 24x80 feet.....	600 00
Hose house, wood, size 4x6 feet.....	10 00
Tools, furniture, material and other property.....	47 00
1 locomotive.....	4,000 00
1 passenger coach.....	2,000 00
1 B. M. & E. car.....	1,500 00

Total value of all personal property.....\$20,982 00

EXHIBIT "D."

1895.

Special meeting of the Board of County Commissioners begun and held at Silver City, Grant County, New Mexico, June 3, 1895.

The following raises in assessments for the year 1895 of the following persons and property was made and the Clerk ordered to notify the parties so raised.

(The list which follows, includes)

A., T. & S. F. R. R. Co. roadbed from \$6,500 to \$8,000 per mile, pp. 362-365, of Record.

141 Regular meeting of the Board of County Commissioners begun and held at Silver City, Grant County New Mexico, the 8th day of July, 1895, pursuant to adjournment from July 1, 1895.

The Board met as a Board of Equalization and acted upon raises in assessments with the following result:

(Then follows a long list, including)

A., T. & S. F. R. R. Co., on roadbed. Not sustained.

A., T. & S. F. R. R. Co., on buildings, etc, Sustained. Pp. 363-369, Record of proceedings.

1896.

Special meeting of the Board of County Commissioners of Grant County, New Mexico, begun and held at Silver City, New Mexico, June 15, 1896, pursuant to adjournment from June 1, 1896. The following raises in assessments for the year 1896 of the following persons and property *was* made and the Clerk ordered to notify the parties so raised.

(The list then following includes)

A., T. & S. F. R. R.. On personal and real, from \$11,894 to \$20,470, p. 397 of Record.

Regular meeting of the Board of County Commissioners of Grant County, begun and held at Silver City, New Mexico, July 16, 1896.

The Board met as a Board of Equalization and acted upon raises in assessments with the following result:

(One in long list being)

A., T. & S. F. R. R. Raise to \$20,470. Sustained. p. 401 of Record.

1897.

Special meeting of the Board of County Commissioners of Grant County, New Mexico, begun and held at Silver City, June 7, 1897.

Board met for the purpose of accepting and approving tax returns for the year 1897, whereupon the following raises in assessment for said year of the following persons and property was made, and the Clerk ordered to notify the persons so raised.

142 (List following includes)

A., T. & S. F. R. R. Co. On personal and real from \$11,894 to \$20,470.

A., T. & S. F. R. R. Co. Track, scales at Deming \$200

A., T. & S. F. R. R. Co. Track S. C. D. & P. R. R from \$4,500 to \$6,500 per mile.

A., T. & S. F. R. R. Co. Add. pipe line Whitney to Deming \$500. p. 449 of Record.

1897.

Regular meeting of the Board of County Commissioners of Grant County, begun and held at Silver City, N. M., July 12, 1897.

The Board met as a Board of Equalization and acted upon raises and assessments with the following result:

A., T. & S. F. R. R. Raise to \$20,470 sustained. p. 453 of Record.

Territory of New Mexico,
Office of the Secretary.

Certificate.

I, Geo. H. Wallace, Secretary of the Territory of New Mexico, do hereby certify there was filed for record in this office at o'clock M., on the Twelfth day of September, A. D. 1897, the order made by the Board of County Commissioners in the matter of the assessment of the Atchison, Topeka and Santa Fe Railway Company certified from the office of Probate Clerk. and also, that I have compared the following copy of the same, with the original thereof now on file, and declare it to be a correct transcript therefrom and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this Sixteenth day of May, A. D. 1899.

(Seal)

(Signed)

GEO. H. WALLACE,
Secretary of New Mexico.

EXHIBIT "D."

It appearing to the Board that the record of the assessment of taxes against the Atchison, Topeka and Santa Fe R. R. Co for the year 1897 is erroneous in that it does not correctly express the action of the Board in the premises it is ordered that the said record be and the same is hereby corrected so as to read as follows, to-wit:

Raised valuation at Deming, New Mexico.

	Returned at	Raised to
Section house, etc	\$ 400 00	\$ 600 00
Depot hotel (1-2 int.)	4,500 00	5,000 00
Baggage room (1-2 int.)	300 00	350 00
Track scales (1-2 int.)	100 00	250 00
Raise- Valuations at Whitney.		
Coal chutes and bins	700 00	1,000 00
Ice house	150 00	300 00
Pump house and coal bin	40 00	100 00
Tank	300 00	500 00
Stock yards	350 00	500 00
Engine house and turntable	1,800 00	3,000 00
Oil house	400 00	800 00
Silver City.		
Depot, etc	600 00	1,200 00
Engine house, turntable and bins	900 00	1,200 00
Totals	\$10,540 00	\$14,800 00

	Personal property, etc., at Silver City.....	\$ 300 00
	Fuel, material, tools, office furniture and personal at Deming.....	2,000 00
	Pipe line from Whitney to Deming.....	500 00
	S. E. 1-4 Sec. 28, T. 23, R. 9 (Deming stock yard) part of above tract, 80 acres.....	100 00
	Total	\$ 2,900 00
144	Silver City, Deming and Pacific Railroad. Main line track. 48.29 miles track, returned at \$4,500 per mile..	\$217,305 00
	48.29 miles track raised to \$6,500 per mile....	313,885 00

It is further ordered that a copy of this record as above changed be served upon said Atchison, Topeka and Santa Fe Railway Company.

I, E. M. Young, Clerk of the Board of County Commissioners in and for said County and Territory, do hereby certify that the above and foregoing is a true and correct copy of the order made by the Board of County Commissioners on the 7th day of September, A. D. 1897, in the matter of the assessment of the Atchison, Topeka and Santa Fe Railway Co., as the same appears of record at pages 461, 462 and 463 in Book 2 of Commissioners' Minutes, records of Grant County, N. M.

(Seal) **E. M. YOUNG,**

By J. A. SHIPLEY, Deputy.

Territory of New Mexico,)
County of Grant.) ss.

E. M. YOUNG.

By J. A. SHIPLEY, Deputy.

Raises as made by County Commissioners upon the Schedules Two and Three of defendants' Tax returns for the year 1895.

Statement of Valuations,—1895.

Rio Grande, Mexico and Pacific Railroad Company.—

Schedule No. 2.

Deming and Whitney.—			
Raised valuation			
	from	to	
Section house	\$300 00	\$750 00	
Hotel, 1-2 interest	3,000 00	6,000 00	
Baggage and express room	150 00	500 00	
Tenement houses	600 00	1,000 00	
Coal chutes	1,100 00	1,500 00	
Ice house	175 00	300 00	
Pump house	150 00	300 00	
Tank	300 00	500 00	
Master mechanic's office	125 00	200 00	
Engine house, etc.	3,000 00	4,000 00	
Oil house	400 00	800 00	
Total raise on Schedule No. 2, \$6,550 00	\$9,300 00	\$15,850 00	
Total raise on Schedule No. 3, \$3,476.00.	324 00	3,800 00	
Total raise on Rio G. Mex. & Pac. Rail- road Co. is		\$10,026 00	

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Schedule No. 2.

Silver City, Deming and Pacific Company—			
	Raised valuation		
	from	to	
Silver City—			
Depot and platform.....	\$840 00	\$1,000 00	
Engine house and turntable...	925 00	1,500 00	
Adobe and brick house, (ad- ditional)		400 00	
Whitewater—			
Depot and platform.....	300 00	500 00	
Section house	200 00	300 00	
Hudson—			
Depot, etc.	200 00	400 00	
Crawford—			
Section house	200 00	400 00	
Tank and windmill.....	250 00	400 00	
<hr/>			
Total raise on S. City, Dem. & Pac.....	\$2,915 00	\$4,900 00	\$1,985 00

Supplemental to Exhibit "D."

Territory of New Mexico,
Office of the Secretary.

I have compared the following copy of the proceedings of the Territorial Board of Equalization relating to assessments and appeals of the Atchison, Topeka and Santa Fe Railway Company and branches for the years 1895, 1896, 1897, 1898, and part of 1899, with the original records thereof on file in this office, and I hereby certify the same to be a correct transcript therefrom, and of all matters relating thereto.

Witness my hand and the seal of the Secretary of the Territory, at Santa Fe, the Twenty-sixth day of April, one thousand eight hundred and ninety-nine.

(Seal)

(Signed)

GEO. H. WALLACE,
Secretary of New Mexico.

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EXHIBIT "E."

Tuesday, Jan'y 8th, 1895.

The Board met pursuant to the adjournment of yesterday, there being present Messrs. Corbett, Baca, Kelley and Kennedy. There being a quorum present, the Board proceeded to fix a valuation of the various kinds of property throughout the Territory of New Mexico for the year 1895 and it was ordered and decided by said Board that all railroads of standard gauge which shall be subject to taxation on the first day of March, 1895, in each county in this Territory through which they run and are situated and running north and east of the Atchison, Topeka and Santa Fe Railroad Depot in the City of Albuquerque shall be valued and assessed to the Company or corporation owning or operating the same at the rate of Seven Thousand Dollars (\$7,000.00) per mile for each and every mile of main line; and at the rate of Twenty-five Hundred Dollars (\$2500.00) per mile for each and every mile of switch and side track; and at the rate of Four Thousand Five Hundred Dollars (\$4500.00) for each and every mile of branch lines; and that the assessment and value per mile on the above stated main line, branches and switches shall include all rolling stock of said Company or companies used thereon, consisting of locomotive engines and cars of all descriptions, but shall not include any buildings, tools or machinery used in repair shops or supplies or materials, nor telegraph lines.

It is further ordered and decided by this Board that all railroads of standard gauge situated south of the north end of the Atchison, Topeka and Santa Fe R. R. depot in the City of Albuquerque including the Atlantic and Pacific Railroad and all other standard gauge railroads south of said City of Albuquerque subject to taxation on the first day of March, 1895, shall be assessed and valued for the purpose of taxation to the company or companies owning

or operating the same in the county through which they run at the rate of Sixty-five Hundred Dollars (\$6500.00) per mile for each and every mile of main line and at the rate of Forty-five
 148 Hundred Dollars (\$4500.00) per mile for all branch lines and at the rate of Twenty-five Hundred Dollars (\$2500.00) per mile for all switches and side tracks connected therewith, which said valuation shall include all rolling stock used by said company or companies, consisting of locomotive engines and cars of all descriptions; but shall not include any buildings, tools or machinery used in repair shops, or other material or supplies; nor telegraph lines.

It is further ordered and decided that all narrow gauge railroads running and operating in the Territory of New Mexico and subject to taxation on the first day of March, 1895, shall be valued for the purpose of taxation in the counties through which they run at the rate of Twenty-five Hundred Dollars (\$2500.00) per mile, for each and every mile of main and branch lines, and at the rate of Fifteen Hundred Dollars (\$1500.00) per mile on all switches and side tracks connected therewith, which said valuation shall include all rolling stock consisting of locomotive engines and cars of all descriptions; but shall not include any buildings, tools or machinery used in repair shops or other material or supplies, nor telegraph lines. The Board adjourned until tomorrow morning at 10 o'clock a. m.

Wednesday, Jan'y. 9th, 1895.

It is further ordered and decided by the Board that all Telegraph lines which are completed and in operation on the first day of March, 1895, shall be valued and assessed to the company or companies operating the same in the counties through which they are operated at the rate of Twenty-five Dollars*(\$25.00) per mile for the first wire and Five Dollars (\$5.00) per mile for each and every additional wire.

Santa Fe, New Mexico, Aug 6, 1895.

9 a. m.

Met pursuant to adjournment.

149 The full Board being present, the following proceedings were had.

In the matter of the appeal of the A., T. & S. F. Rd. Co. from the action of the Board of County Commissioners of Dona Ana County the raise was not sustained, on the buildings and improvements on line of road, but was overruled for the season that such assessment is different from that made by any other Board in the various counties of the Territory, and that for that reason is discriminating and inequitable.

Santa Fe, Jan. 2, 1896.

On this day at the hour of 2 o'clock p. m. pursuant to the statute in such case made and provided, the Board of Equalization of the Territory of New Mexico, met for the transaction of such business as might properly come before it. There being present, Mr. C. W. Kennedy, Mr. W. R. Tipton, Mr. George L. Ulrich, Mr. D. C. Hobart, Absent Romulo Martinez.

In the matter of the Las Vegas Hot Springs appeal which was brought before the August meeting, and for lack of proper data, referred to the January meeting, after due deliberation this board sustains the appeal, for the reason that the Clerk of San Miguel County, failed to send up a transcript of the record in said cause, and this board instructs said Clerk and the board of County Commissioners to correct their records of assessment in said cause in accordance with the return made by said Las Vegas Hot Springs Hotel Company.

Santa Fe, New Mexico.

January 3rd, 1896.

Board met pursuant to adjournment of yesterday. Present: C. W. Kennedy, W. R. Tipton, Geo. L. Ulrich and D. C. Hobart. Absent Romulo Martinez.

After due deliberation, this Board has fixed the following values for the ensuing year on railroad property, telegraph lines and telephone lines, within the Territory of New Mexico, as follows:

150 All railroads of standard gauge, which shall be subject to taxation on the first day of March, A. D. 1896, in each County in the Territory of New Mexico, through which they may run and are situated and running north and east of the Atchison, Topeka and Santa Fe Railroad depot, in the City of Albuquerque, N. M. shall be valued and assessed to the company or companies owning or operating the same, at the rate of Seven Thousand dollars per mile, for each and every mile of main line, and at the rate of twenty five hundred dollars per mile, for each and every mile of side, switch and track, and at the rate of Four thousand five hundred dollars per mile for each and every mile of branch lines and that the assessment and value per mile on the above stated main line, branch line and switches, shall include all rolling stock of said company or companies use- thereon, except such cars as belong to the Pullman Palace Car Company, and designated at Pullman Palace Cars, and consisting of locomotive engines and cars of all descriptions, but shall not include any buildings, machinery or tools used in repair shops, or any supplies or materials, nor shall it include telegraph lines.

It is ordered and decided by this Board that all telegraph lines that are completed and in operation within the Territory of New Mexico, on the first day of March A. D. 1896, shall be valued and assessed to the company or companies operating the same, within the counties through which they are operated, at the rate of Twenty-

five dollars per mile for the first wire, and five dollars per mile for each and every additional wire.

It is further ordered and decided by this Board, that all railroads of standard gauge, situated south of the north end of the Atchison, Topeka and Santa Fe Railroad depot, in the City of Albuquerque, N. M., including the Atlantic and Pacific Railroad, the Southern Pacific Railroad and all other standard gauge railroads, south of said city of Albuquerque, N. M. subject to taxation on the first day of March A. D. 1896, shall be assessed and valued for the purpose of

151 taxation, to the company or companies owning or operating the same, in the county through which they run, at the rate of six thousand five hundred dollars per mile, for each and every mile of main line, and at the rate of four thousand five hundred dollars per mile, for all branch lines, and at the rate of twenty-five hundred dollars per mile for all switches and side tracks connected with said road; which said valuation shall include all rolling stock, used by said company or companies except, Pullman Palace Cars, consisting of locomotive engines and cars of all description, but shall not include any buildings, tools or machinery used in repair shops, or any other material or supplies nor telegraph lines.

It is further ordered and decreed by this Board, that all narrow gauge railroads running through and being operated within this Territory of New Mex. and subject to taxation on the first day of March 1896 shall be valued for the purposes of taxation, in the various counties through which they run at the rate of three thousand dollars per mile for each and every mile of main and branch lines and at the rate of fifteen hundred dollars per mile on all switches and side tracks connected therewith, which said valuation shall include all rolling stock consisting of locomotive engines and cars of all description except Pullman Palace Cars; but shall not include any buildings, tools, or machinery used in repair shops or material or supplies or telegraph lines.

In the matter of fixing the values of standard gauge railroads, north (north) of the city of Albuquerque, New Mexico, it shall be understood that such valuation, does not apply to the Union Pacific, Denver and Gulf R. R. This Board after due consideration, etc. August 5th (1896).

In the matter of the A. T. & S. F. Rd. Company, Grant County, the appeal was sustained as to the half interest in the depot and freight house assessed; but was disallowed as to the other property

152 mentioned for the reason that to sustain such an appeal would be to discriminate against the rate in other counties, all of which appear to be at the same rate as the case in question.

9 o'clock a. m. Jan. 5th. (1897.)

The territorial board of equalization for the Territory has fixed the following values for the ensuing year on railroad property, telegraph lines and telephone lines within the Territory of New Mexico as follows:

All railroads of standard gauge which shall be subject to taxation

on the 1st day of March 1897, in each county in the Territory of New Mexico, through which they may run and are situated and running north and east of the Atchison, Topeka and Santa Fe R. R. depot, in the city of Albuquerque, N. M. shall be valued and assessed to the companies owning or operating the same at the rate of \$7,000.00 per mile, for each and every mile of the main line, and at the rate of \$2,500.00 per mile for each and every mile of switch and side track, and at the rate of \$4,500.00 per mile for each and every mile of branch lines, and that the assessments and values per mile on the above stated main line, branch lines and switches, shall include all rolling stock of said company or companies used thereon, except such cars as belong to the Pullman Palace Car Company, and designated Pullman Palace Cars. The above rolling stock mentioned consists of locomotive engines, and cars of all descriptions but shall not include any buildings, machinery or tools used in repair shops, or any supplies or materials on hand, nor shall it include the telegraph lines.

It is further ordered and decided by this Board that all railroads of standard gauge, situated south of the north end of the Atchison, Topeka and Santa Fe Railroad depot, in the city of Albuquerque, N. M. including the Atlantic and Pacific Railroad, shall be subject to taxation on the first day of March, 1897, and shall be assessed for taxable purposes to the company or companies owning or operating the same in the county or counties through which they run, at the rate of \$6,500.00 per mile for each and every mile of main line, and at the rate of \$4,500.00 per mile for each and every mile of branch line and shall be assessed at the rate of \$2,500.00 per mile for each and every mile of switch and side track connected with and belonging to the said road. Which said valuation shall include all rolling stock used by said company or companies except Pullman Palace Cars. Said rolling stock included, consists of locomotive engines and cars of all descriptions but shall not include any buildings, tools or machinery used in repair shops or any material or supplies on hand and shall not include telegraph lines.

It is ordered and decided by this Board that all telegraph lines that are completed, and in operation in the Territory of New Mexico, on the first day of March, 1897, shall be valued and assessed to the company or companies operating the same within the counties through which they are operated, at the rate of \$25.00 per mile, for the first wire, and \$5.00 per wire for each and every additional wire.

Santa Fe, N. M.
September 20, 1897.

The Board met pursuant to adjournment of Saturday. All members present.

In the matter of the appeal of the A. T. & S. F. R. R., from Grant County, New Mexico, said appeal was continued to the January meeting of this Board, on account of the inability of the District

Attorney for said County to attend such meeting, who desired to be heard in the case.

Santa Fe, New Mexico.
January 10, 1898.

Afternoon Session, 2 p. m.

The Board met pursuant to adjournment. All members present as this morning. In the matter of the appeal of the Silver City, Deming and Pacific Railroad of Grant County, New Mexico, which was continued from the September meeting of 1897, after receiving the opinion of the Solicitor General of New Mexico, and carefully considering all evidence presented, to said Board, the Board
154 sustains the appeal of the A. T. & S. F. R. R., and places the value of said branch line (the same having been shown by proof brought before this Board, that the same is a branch line and shall be classified as such) and the Board instructs the Assessor of said County, to correct his tax roll in accordance with such finding.

Santa Fe, N. M.
Wednesday Morning.

10 o'clock a. m. January 12, 1898.

The Board met pursuant to adjournment of yesterday afternoon. All members present.

Hon. Henry L. Waldo representing the A. T. & S. F. R. R. appeared before this Board in the matter of taxation of said road for the ensuing year. This Board heard the statements of Judge Waldo, and received and placed on file comparisons of taxation on various classes of property, for further consideration.

Santa Fe, N. M.
January 14, 1898.

Friday Morning.

The Board met pursuant to adjournment of yesterday evening. All members present.

The Territorial Board of Equalization for the Territory of New Mexico, have fixed the following values for the ensuing year, on all taxable property as follows:

All railroads of standard gauge which shall be subject to taxation on the first day of March, 1898, in each county in the Territory of New Mexico, through which they may run, and are situated and running, north and east of the Atchison, Topeka and Santa Fe Railroad depot, in the city of Albuquerque, New Mexico, shall be valued and assessed to the companies owning or operating the same, at the rate of Seven Thousand Dollars per mile, for each and every mile of main line; and at the rate of Twelve hundred dollars per

mile, for each and every mile of switch and side track; and that
the assessment and values per mile on the above stated main
line, and switches and side tracks, shall include all rolling
stock of said company or companies used thereon, except such
cars as belong to the Pullman Palace Car Company, and designated
as Pullman Palace Cars.

The above mentioned rolling stock consists of locomotive engines
and cars of all description, but shall not include any buildings, ma-
chinery or tools used in repair shops, or any supplies or material
on hand, nor shall it include the telegraph lines.

It is further ordered and decided by this Board that all railroads
of standard gauge situated south of the north end of the Atchison,
Topeka and Santa Fe Railroad depot in the City of Albuquerque,
New Mexico, including the Santa Fe Pacific Railroad and Southern
Pacific Railroad shall be subject to taxation on the first day of March,
1898, and shall be assessed for taxable purposes, to the company or
companies operating or owning the same, in the county or counties
through which they may run, at the rate of six thousand five hun-
dred dollars per mile, for each and every mile of main line; and
at the rate of Twelve Hundred Dollars per mile for each and
every mile of switch and side track, connected and belonging to said
road; which said valuation shall include all rolling stock used by said
company or companies except Pullman Palace Cars. Said rolling
stock included consists of locomotive engines and cars of all de-
scription; but shall not include any buildings, tools or machinery
used in repair shops or any material or supplies on hand; and shall
not include telegraph lines.

January 15, '98.

In the matter of fixing values of the various branch lines of rail-
road running and being operated through the various counties of
New Mexico; It is ordered and decided by this Board, that the fol-
lowing valuations shall be placed on the various branch lines of the
railroads to-wit:

Dillon & Blossburg Branch of the A. T. & S. F. R. R. four thou-
sand five hundred dollars per mile for each and every mile of
main line, and twelve hundred dollars per mile of switch and
side track. Hot Springs Branch of the A. T. & S. F. R. R.,
four thousand dollars per mile for each and every mile of main line,
and twelve hundred dollars per mile for each and every mile of side
track and switches.

In the matter of the Santa Fe Branch of the A. T. & S. F. R. R.
this Board places the valuation of said road at the rate of Four
thousand five hundred Dollars per mile for each and every mile
of main line and at the rate of twelve hundred dollars per mile for
each and every mile of switch and side track.

In the matter of the Socorro and Magdalena Branch of the A. T.
& S. F. R. R., this Board places the valuation of said branch at
Four thousand Five Hundred Dollars per mile for each and every

mile of main line, and at the rate of twelve hundred dollars per mile for each and every mile of switch and side track.

In the matter of the Lake Valley Branch of the A. T. & S. F. R. R., this Board places the valuation of three thousand five hundred dollars per mile for each and every mile of main line, and Twelve hundred dollars per mile for each and every mile of switch and side track.

In the matter of the Silver City, Deming and Pacific Railroad, this Board fixes the valuation of four thousand five hundred dollars per mile, for each and every mile of main line, and the valuation of twelve hundred dollars per mile of switch and side track.

In the matter of the Whitewater Spur of the A. T. & S. F. R., this Board fixes the valuation at Three Thousand Dollars per mile for each and every mile of main line of said Spur, and at the rate of Twelve Hundred Dollars per mile for each and every mile of switch and side track.

It is further ordered and decided by this Board that all telegraph lines, that are completed and operated within the Territory of New Mexico, on the first day of March A. D. 1898, shall be valued and assessed to the company or companies operating the same, 157 within the counties through which they may run and are operated, at the rate of twenty-five dollars per mile for the first wire, and at the rate of five dollars per mile for each and every additional wire.

Afternoon Session, Monday, September 12, '98.

The Board met pursuant to adjournment of this morning. All members present.

In the matter of the appeal of the A. T. & S. F. Railway Company, and the Silver City, Deming and Pacific Railway Company, the appeal of said companies is sustained; also the appeal of the aforesaid companies for 1897, which was continued from the September, 1897, to the January meeting 1898 and then continued to the present meeting, was also sustained; the portion of said appeals referring to personal property of said roads for the years 1897 and 1898, was sustained for the reason that all property of like class throughout the various counties through which said road runs, were assessed at the same valuation as has been placed on said property in Grant County by said Railroad, as evidenced by the returns of said company. And this Board instructs the Territorial Auditor to notify the Board of County Commissioners of Grant County to correct their records in accordance with this rule.

Afternoon Session.

Tuesday, Jan. 10, 1899.

Board met pursuant to adjournment. All members present.

Hon. Henry L. Waldo, representing the A. T. & S. F. R. R., appeared before the Board in the matter of taxation of said road for

the ensuing year. The Board heard the statements made by Judge Waldo and placed the same on file for further consideration.

Friday Morning.

Jan. 13, 1899.

Board met pursuant to adjournment of yesterday. All members present.

158 On motion of the Hon. Thos. Hughes the Board proceeded to consider the valuations to be placed on the various classes of property subject to taxation, on the first day of March, 1899, within the Territory of New Mexico.

The Territorial Board of Equalization for the Territory of New Mexico, have fixed the following values, for the ensuing year, on all taxable property, within said Territory, subject to taxation on the first day of March, 1899, as follows:

All railroads of standard gauge which shall be subject to taxation on the first day of March, 1899, in each county, in the Territory of New Mexico, through which they may run and are situated and running north and east of the Atchison, Topeka and Santa Fe Railroad depot in the city of Albuquerque, New Mexico, shall be valued and assessed to the companies owning or operating the same, at the rate of seven thousand dollars per mile, for each and every mile of the main line; and at the rate of twelve hundred dollars per mile, for each and every mile of switch and side track. And the assessment and values per mile of the above stated main line, and switches and side tracks, shall include all rolling stock, of said company or companies used thereon, except such cars as belong to the Pullman Palace Car Company, and designated as Pullman Palace Cars.

The above rolling stock mentioned consists of locomotive engines and cars of all descriptions, but shall not include any buildings, machinery or tools used in the repair shops, or any supplies or material on hand, nor shall it include the telegraph lines.

It is further ordered and decided by this Board, that all railroads of standard gauge, situated south of the north end of the Atchison, Topeka and Santa Fe railroad depot, in the city of Albuquerque, New Mexico, (including the Santa Fe Pacific railroad, shall be subject to taxation on the first day of March, 1899, and shall be assessed for taxable purposes, to the company or companies operating or

owning the same in the county or counties through which
159 they may run, at the rate of Six Thousand Five Hundred Dollars per mile, for each and every mile of main line; and at the rate of Twelve Hundred Dollars per mile, for each and every mile, of switch and side-track; connected with and belonging to said road; which said valuation shall include all rolling stock used by said company or companies, except Pullman Palace Cars. Said rolling stock included consists of locomotive engines and cars of all descriptions; but shall not include any buildings, tools or machinery used in repair shops, or any material or any supplies on hand; and shall not include telegraph lines.

In the matter of fixing the value of the various branch lines of

railroad running and operating through the various counties of New Mexico, it is ordered and decided by this Board, that the following valuations shall be placed on the various branch lines of the railroads, to-wit:

Dillon and Blossburg branch of the A. T. & S. F. R. R. Four Thousand Five Hundred Dollars per mile, for each and every mile of main line, and Twelve Hundred Dollars per mile, for each and every mile of switch and side track.

Hot Springs branch of the A. T. & S. F. R. R., Four Thousand Five Hundred Dollars per mile, for each and every mile of the main line, and Twelve Hundred Dollars per mile, for each and every mile of side tracks and switches.

In the matter of the Santa Fe branch of the A. T. & S. F. R. R., this Board places the valuation of said Railroad, at the rate of Four Thousand Five Hundred Dollars per mile, for each and every mile of the main line, and at the rate of Twelve Hundred Dollars per mile, for each and every mile of switch and side track.

In the matter of the Socorro & Magdalena branch of the A. T. & S. F. R. R., this Board places the valuation of said branch at Four Thousand dollars per mile, for each and every mile of the main line, and at the rate of Twelve Hundred Dollars per mile for each and every mile of switch and side track.

In the matter of the Lake Valley branch of the A. T. & S. F. R. R., this Board places the valuation of Three Thousand Five Hundred Dollars per mile, for each and every mile of the main line, and Twelve Hundred dollars per mile, for each and every mile of switch and side track.

In the matter of the Silver City, Deming and Pacific railroad, this Board fixes the valuation, of Four Thousand Five Hundred Dollars per mile, for each and every mile of main line, and the valuation of Twelve Hundred dollars per mile, for each and every mile of switch and side track.

In the matter of the Whitewater spur of the A. T. & S. F. R. R., this Board fixes the valuation at Three Thousand Dollars per mile, for each and every mile of the main line, of said spur, and at the rate of Twelve Hundred Dollars per mile, for each and every mile, of switch and side track.

It is further ordered and decided by this Board that all telegraph lines, that are completed and operated within the Territory of New Mexico, on the first day of March, 1899, shall be valued and assessed to the company or companies operating the same, within the counties through which they may run and are operated, at the rate of Twenty five dollars per mile for the first wire; and at the rate of Five Dollars per mile, for each and every additional wire.

TERRITORY OF NEW MEXICO.

Office of the Secretary.

Certificate.

I, Geo. H. Wallace, Secretary of the Territory of New Mexico, do hereby certify there was filed for record in this office at o'clock
...M, on the day of A. D. Protest of the Silver City, Deming and Pacific Railroad Company against the valuation placed upon its track by the Board of County Commissioners of Grant County, New Mexico, for the year 1897. and also, that I have compared the following copy of the same with
161 the original thereof now on file, and declare it to be a correct transcript therefrom and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this Sixteenth day of May, A. D. 1899.

(Seal) (Signed)

GEO. H. WALLACE,
Secretary of New Mexico.

Exhibit "F."

To the Honorable Board of County Commissioners, of Grant County, Territory of New Mexico.

Gentlemen:

Your petitioner, The Silver City, Deming and Pacific Railroad Company, respectfully represents to your Honorable Board that it has made and filed with the proper officer of the County of Grant its return of taxable property for the year eighteen hundred and ninety seven, that in said return it fixed and estimated the value of its road bed for its running track in said County at \$4500. per mile, and that it had 48.29 miles of said road-bed in said County of Grant, and that the same was of the value of \$217,305., and that your petitioner is informed that the said return of said property has been raised by your Honorable Body from the sum of \$217,305. which was the amount of the valuation of said track as returned by your petitioner, to the sum of \$313,885. being an increase over and above assessment valuation and return of said track by your petitioner of the sum of \$96,580., in making which assessment and raise your Honorable Body increased the valuation of said track from the rate of \$4500. per mile to the rate of \$6500. per mile as though the same was a main track of the main line, where as in truth and fact your petitioner represents and states to your Honorable Body that said track of said line is, and is in reality used as, a branch line of railroad in the Territory of New Mexico within the meaning of the definition and intent of the Board of Equalization of the Territory of New Mexico
162 in fixing the rate of taxation for branch lines that the said Silver City, Deming and Pacific Railroad Company's line lies

south of the city of Albuquerque, New Mexico, and the valuation thereof, has by said Board of Equalization been fixed at the rate of \$4500. per mile for each mile thereof.

Your petitioner also states to your Honorable Body that it has been notified that its real and personal property as returned by it in the County of Grant aforesaid has been increased from the sum of \$11,894. to \$20,470., and that the Board of County Commissioners have added to this return, track scales at Deming, at a valuation of \$200., and a Pipe line from Whitney to Deming, at a valuation of \$500., and your petitioner states to your Honorable Body that its assessment, return and valuation of its said railroad track and of its said personal property in said county was a correct, just and fair valuation thereof; the said return of said railroad track being determined by the action of said Board of Equalization as aforesaid, and the said return as to the valuation of said personal property being the same rate and valuation at which similar railroad property throughout the Territory in general is valued.

Your petitioner therefore prays that the action of the said Board of County Commissioners in raising the valuation of said track, and of said personal property, may be revoked and rescinded, and that said valuation of said track and personal property so made by your petitioner in its return thereof may be reinstated and allowed by your Honorable Board as originally made by your petitioner. And your petitioner further says that it owns no real estate in said County of Grant.

SILVER CITY DEMING AND PACIFIC RAILROAD
COMPANY,

By

(Signed) CONWAY & HAWKINS,
its attorneys.

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TERRITORY OF NEW MEXICO,
OFFICE OF THE SECRETARY.

CERTIFICATE.

I, Geo. H. Wallace, Secretary of the Territory of New Mexico, do hereby certify there was filed for record in this office, at o'clock . . . M., on this Twelfth day of September, A. D. 1897, the appeal of Silver City, Deming and Pacific Railroad Company to the Board of Equalization. and also, that I have compared the following copy of the same, with the original thereof now on file, and declare it to be a correct transcript therefrom and of the whole thereof.

(SEAL) In witness whereof, I have hereunto set my mand and
affixed my official seal this Sixteenth day of May,
A. D. 1899.

(Signed) GEO. H. WALLACE,
Secretary of New Mexico.

EXHIBIT "F."

*To the Honorable Board of County Commissioners of Grant County,
Territory of New Mexico:*

Gentlemen: Your petitioner, having heretofore presented its petition to your Honorable Body praying that the action of your Honorable Body heretofore taken in raising the valuation of your petitioner's railroad track in the County of Grant from the rate of \$4,500.00 to \$6,500.00 per mile, and the raise of the valuation of its personal property as returned by it in the County of Grant from the sum of \$11,894.00 to the sum of \$20,470.00, and also the adding of its return of track scales at Deming at a valuation of \$200.00 and the pipe line from Whitney to Deming at a valuation of \$500.00, should be revoked and rescinded, and the original return and valuation of your petitioner, *and* tofore made by it as required by law, should be reinstated and affirmed by your Honorable Body and your Honorable Board having refused the prayer of your petitioner, and having ordered and directed that its said raise in the valuation of said property and its additions to the amount thereof should be affirmed.

Now, therefore, your petitioner, alleging that the valuation of its said line in the County of Grant aforesaid, is, and has been, fixed by law at the sum of \$4,500.00 per mile as returned by it, and that the valuation of its personal property as made by it in its original return is, and was, a true and correct valuation and description thereof, hereby takes and prays an appeal from the action of your Honorable Body in declining to grant the petition of your petitioner heretofore presented to your Honorable Board, to, and to be considered by, the Territorial Board of Equalization of the Territory of New Mexico, in order that the return so originally made by your petitioner of the amount and value of its said taxable property in the County of Grant aforesaid may be sustained by said Territorial Board of Equalization, and that the action of your Honorable Body in raising the valuation and amount of said property so owned by your petitioner and so returned by it may be, by said Territorial Board vacated, set aside and held for naught.

And your petitioner will ever pray, etc.

SILVER CITY, DEMING AND PACIFIC RAILROAD
COMPANY,

By

CONWAY AND HAWKINS,
Its Attorneys.

(Endorsed)

Filed in my office this 12th day of July, 1897.

E. M. YOUNG, Clerk.

In the District Court of the Third Judicial District of the Territory of New Mexico, within and for the County of Grant.

165	The territory of New Mexico,)	
		Plaintiff.)
	versus	)	No. 3425.
	The Atchison, Topeka and Santa Fe Railway Company,	)	No. 3457.
	The Rio Grande, Mexico and Pacific Railroad Com-	)	No. 3458.
	pany and the Silver City, Deming and Pacific Rail-)	
	road Company,	Defendants.)	

The above causes coming on to be heard for trial before the Court under a stipulation herein of the parties plaintiff and defendant and upon the agreed statement of facts heretofore filed herein, and the Court having read said agreed statement of facts and having heard the argument of counsel for the respective parties herein, and being fully advised in the premises, doth find as follows, viz:

That The Atchison, Topeka and Santa Fe Railway Company is indebted to the plaintiff, the Territory of New Mexico, in the sum of One Thousand, four hundred and eighty-and seventy one-hundredths dollars for taxes levied and assessed in the year 1895 by said County of Grant, and in the sum of One Thousand, nine hundred and seventeen and eighty-three hundredths dollars for taxes assessed and levied in the year 1896 by said County of Grant for the payment of judgments against said County of Grant and in the sum of One Thousand, four hundred and eighty-one and ninety-six hundredths dollars for taxes assessed and levied in the year 1897 by said County of Grant, and in the sum of Two Hundred and twenty-six and twenty-one hundredths dollars for taxes assessed and levied in the year 1895 by said county of Grant for Territorial, County and School purposes and for the payment of judgments against said County of Grant upon an increased valuation made by the Board of County Commissioners of said County of Grant, the property of the said defendants in said County of Grant, for said year 1895, 166 being a total indebtedness of Five Thousand, one hundred and fifty-six and seventy-one hundredths dollars.

Wherefore, It is by the Court, considered, ordered and adjudged that the plaintiff, the Territory of New Mexico, do have and recover of and from the defendants, The Atchison, Topeka and Santa Fe Railway Company, the Rio Grande, Mexico and Pacific Railroad Company and the Silver City, Deming and Pacific Railroad Company, the sum of Five Thousand, one hundred and fifty-six and seventy-one hundredths dollars, together with interest thereon at the rate of six per cent per annum from date and its costs in this suit and that execution issue therefor; to which consideration, order and judgment, the said defendants and each of them by their attorney, at and before the entering of said judgment, duly accept.

Done at Silver City, N. M., this 9th day of October, A. D. 1902.

FRANK W. PARKER,

Associate Justice, etc.

And because the foregoing matters are not matters of record in said causes, the defendants and each of them, pray that this their bill of exceptions containing the same may be signed, sealed and made a part of the record, which is accordingly done this third day of December, A. D. 1902, and it is hereby certified that this bill of exceptions contains all the evidence used and given on the trial of the said causes as per the agreed statement of facts and the stipulation heretofore filed herein.

(Signed)

FRANK W. PARKER,
Associate Justice of the Supreme Court of the
Territory of New Mexico, and Judge of the
District Court for the County of Grant.

The plaintiff agrees to the correctness of the foregoing bill
167 of exceptions and consents that the same may be signed and
sealed by any Justice of the Supreme Court at any time on or
before the 15th day of December, A. D. 1902.

(Signed)

A. H. HARLEE,
Attorney for Plaintiff.

Which said Bill of Exceptions was and is endorsed in words and figures as follows, to-wit:

Nos. 3425, 3457, 3458.

In the District Court, County of Grant, Territory of New Mexico.
Territory of New Mexico,
Plaintiff.

versus

The A., T. & S. F. Railway Co.,
The R. G., M. & P. Railroad Co.,
The S. C., D. & P. Railroad Co.,
Defendants.

(Three Cases Consolidated)

Bill of Exceptions.

Filed in my office December 4, 1902.

JAMES P. MITCHELL, Clerk.
By JOHN LEMON, Deputy.

Territory of New Mexico,)
Third Judicial District,)
County of Dona Ana.)

I, James P. Mitchell, Clerk of the District Court of the Third Judicial District of the Territory of New Mexico do hereby certify that the foregoing One Hundred and thirty-one typewritten pages contain a full, true and complete copy of the Writs of Error issued out of the Supreme Court of the Territory of New Mexico, of the

Stipulation, of the whole of the record, and of the Bill of Exceptions, in the cases wherein the Territory of New Mexico is
 168 plaintiff, and The Atchison, Topeka and Santa Fe Railway Company, and the Rio Grande, Mexico and Pacific, and The Silver City, Deming and Pacific are defendants, Nos. 3425, 3457 and 3458, respectively, as therein stated, and as the same appear on file and of record in my office.

In Testimony Whereof, I hereunto set my hand and affix the seal of said Court at my office in Las Cruces, New Mexico, this 17th day of December, A. D. 1902.

(Seal)

JAMES P. MITCHELL, Clerk.

169 And Afterwards, on towit:—on the 26th day of December, A. D., 1902, there was filed in the office of the said Clerk of the Supreme Court of the Territory of New Mexico, an assignment of errors in the above three cases, which said assignment of errors was and is in words and figures, following towit:—

In the Supreme Court of the Territory of New Mexico

January Term, A. D., 1903

The Atchison, Topeka and Santa Fe Railway Company,
 Plaintiff in Error,

versus

The Territory of New Mexico
 Defendant in Error

The Rio Grande, Mexico and Pacific Railroad Company,
 Plaintiff in Error,

versus

The Territory of New Mexico,
 Defendant in Error,

The Silver City, Deming and Pacific Railroad Company,
 Plaintiff in Error,

versus

The Territory of New Mexico,
 Defendant in Error.

Assignment of Error.

Now comes the plaintiffs in error in each of the above entitled causes, respectively, and assign as ground of error committed by the court below the following, viz:—

1st. The Court erred in finding that the defendant in error was entitled to recover judgment against the Plaintiffs in Error in the

170 sum of five Thousand one hundred fifty six and seventy one hundreths dollars for taxes levied and assessed in the years 1895, 1896 and 1897 for the payment of judgments against the County of Grant.

2nd. The court erred in finding and declaring to be valid and legal the levy of the Board of County Commissioners of the county of Grant made in and for the year 1895 of 3 and 50-100 mills for the payment of a judgment against said county in favor of A. B. Laird.

3rd. The court erred in finding and declaring to be valid and legal the levy of the Board of County Commissioners of the county of Grant made in and for the year 1896 of 4 and 50-100 mills for the payment of judgments against said county and the Board of county commissioners thereof.

4th. The court erred in finding and declaring to be valid and legal the levy of the Board of County Commissioners of the county of Grant made in and for the year 1897 of 16 and 50-100 mills for county purposes, a part of which said levy for county purposes was for the purpose of raising money for the payment of judgments against said county and the board of county commissioners thereof.

5th. The court erred in finding and declaring to be due and owing from the Plaintiffs in Error to the defendants in error the sum of two hundred seventy six and twenty one hundreths dollars for taxes levied and assessed in the year 1895 by the county of Grant for Territorial, County and School purposes and for the payment of judgments against said county of Grant upon an increased valuation made by the board of county commissioners of said county upon the year 1895.

Wherefore, Plaintiffs in Error pray that said judgment be reversed, vacated and set aside and held for naught, and that such judgment be entered herein as to this Honorable Court shall seem agreeable to law.

(Signed)

H. L. WALDO,

R. E. TWITCHELL,

Attorneys for Plaintiffs in Error.

171 And afterwards on to wit, at a regular term of the Supreme Court of the Territory of New Mexico, begun and held at Santa Fe, the seat of Government, on the first Wednesday after the first Monday in January, A. D. 1903, the same being the 7th day of January, 1903, on the seventh day of the said regular term, the same being the 15th day of January A. D., 1903, the following among other proceedings were had and entered of record, as follows, to wit:—

The Atchison, Topeka & Santa Fe Railway Company,)	
Plaintiff in Error,	)	No. 984.
vs.	)	Error to District Court,
The Territory of New Mexico,	)	Grant County.
Defendant in Error.)	
Rio Grande, Mexico & Pacific Railroad Company,)	
Plaintiff in Error,	)	No. 985.
vs.	)	Error to District Court,
The Territory of New Mexico,	)	Grant County.
Defendant in Error.)	
Silver City, Deming & Pacific Railroad Company,)	
Plaintiff in Error,	)	No. 985.
vs.	)	Error to District Court,
The Territory of New Mexico,	)	Grant County.
Defendant in Error.)	

These causes coming on to be heard upon the transcript of record, assignment of errors and briefs of counsel, are argued by R. E. Twitchell, Esq., attorney for plaintiffs in error and A. H. Harllee, Esq. Attorney for defendant in error, and submitted to the court, and the court not being sufficiently advised in the premises, takes the same under advisement.

And afterwards on to wit, at the said regular term of the Supreme Court of the Territory of New Mexico, on the eighteenth day thereof, the same being the twenty-sixth day of February, A. D. 1903, the following among other proceedings were had and entered of record, as follows towit:—

172	The Atchison, Topeka and Santa Fe Railroad Company,)	
	Plaintiff in Error,	)	No. 984.
	vs.	)	Error to District Court,
The Territory of New Mexico,		)	Grant County.
	Defendant in Error.)	
	The Rio Grande, Mexico & Pacific Railroad Company,	)	No. 985.
	vs.	)	Error to District Court,
The Territory of New Mexico,		)	Grant County.
	Defendant in Error.)	
	The Silver City, Deming & Pacific Railroad Company,)	
	Plaintiff in Error,	)	No. 986.
	vs.	)	Error to District Court,
The Territory of New Mexico,		)	Grant County.
	Defendant in Error.)	

These causes having been argued by counsel, and submitted to and taken under advisement by the court upon a previous day of the present term, and the court being now sufficiently advised in the premises announces its decision by Associate Justice Baker, Chief Justice Mills, and Associate Justice McFie concurring, affirming the judgment of the district court to the extent of the sum of two hundred and seventy-six 21-100 (\$276.21) dollars, and entering judgment in this court for the said amount, for reasons stated in the opinion of the court on file; It is therefore considered, adjudged and decreed by the court that the defendant in error herein, do have and recover of the said plaintiff in error in the above entitled three causes the sum of two hundred and seventy six dollars and twenty one cents (\$276.21) with interest and costs from this date.

And afterwards on to wit: at a regular term of the Supreme Court of the Territory of New Mexico, begun and held at Santa Fe, on the First Wednesday after the first Monday in January A. D. 1905, on the tenth day thereof, the same being the 17th day of January A. D., 1905, the following among other proceedings were had and entered of record, following to wit:—

173	The Atchison, Topeka and Santa Fe Railway Company,)	
	Plaintiff in Error,	)	No. 984.
	vs.	)	Error to District Court,
	The Territory of New Mexico,	)	Grant County.
	Defendant in Error.)	
	The Rio Grande, Mexico and Pacific Railroad Company,)	
	Plaintiff in Error,	)	No. 985.
	vs.	)	Error to District Court,
	The Territory of New Mexico,	)	Grant County.
	Defendant in Error.)	
	The Silver City, Deming and Pacific Railroad Company,)	
	Plaintiff in Error,	)	No. 985.
	vs.	)	Error to District Court,
	The Territory of New Mexico,	)	Grant County.
	Defendant in Error.)	

Now comes the defendant in error in the above entitled causes, by its attorney A. H. Harlee, by W. B. Childers, of counsel, and prays to the court to be granted an appeal in the above entitled causes from the judgment of this court to the Supreme Court of the United States of America, and the court being sufficiently advised in the premises, grants said motion. It is therefore considered and adjudged by the court that the defendant in error herein do have an appeal from the judgment and decree of this court herein, to the Supreme Court of the United States.

And afterwards, on to wit on the 26th day of February, A. D., 1903 there was filed in the office of the clerk of the Supreme Court of the Territory of New Mexico, an opinion of the court in the above entitled causes, which said opinion of the court, was in words, and figures, following to wit:—

174 In the Supreme Court of the Territory of New Mexico.

January Term, A. D., 1903.

Atchison, Topeka and Santa Fe Railway Company,
Plaintiff in Error,

vs.

Territory of New Mexico,

Defendant in Error.

Thi Rio Grande, Mexico and Pacific Railroad Company,
Plaintiff in Error,

vs.

The Territory of New Mexico,

Defendant in Error.

Silver City, Deming and Pacific Railroad Company,
Plaintiff in Error,

vs.

Territory of New Mexico,

Defendant in Error.

Writ of Error from Grant County. Before Parker, J.

Henry L. Waldo and R. E. Twitchell, Attorneys for Plaintiffs in Error.

A. H. Harlee, and W. H. H. Llewellyn, Attorneys for Defendant in Error.

Syllabus.

1. The court can so far inquire into a judgment, rendered against a county, as to ascertain if the claim is legally payable out of taxes sought to be so applied.
2. A claim against a county merged into judgment, carries with it all the infirmities, of want of authority of the county commissioners to levy a tax to pay such claim.
3. If the county commissioners have no authority to levy a tax to pay a claim against a county, they have no authority to levy a tax to pay a judgment based on such claim.

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Opinion of the Court.

BAKER, J.

The three above entitles cases, were tried as one case, upon an agreed statement of facts in the District court of Grant County, without the intervention of a jury, and judgment rendered against said several Plaintiffs in Error, from which judgment writs of error were sued out.

The special levy of taxes contested by plaintiffs in error was made to pay certain judgments against said county, which judgments were rendered upon claims constituting a part of the county current expenses of said county for the year- 1895, 1896, and 1897. This special levy was in excess of the statutory limit of two and one half mills for county current expenses, and the one half of one mill for deficit.

The all important question raised in this case, is whether or not the court can inquire into the judgment to determine whether the claim is one legally payable out of the taxes sought to be collected.

Defendant in error contends that the judgments are not county current expenses, *but judgments*, and that the nature of the claim cannot be inquired into.

This is the first time this court has been called upon to construe this statutes, and the effect of a judgment against a county for county current expenses in excess of three mills upon the authority of county commissioners to levy taxes to pay the same. Section one of chapter 2 of the session laws of 1874, provides that property "shall be subject to an advalorem tax of one per centum upon each dollars of the value thereof, which shall be assessed and collected as is now, or as may be hereafter provided by law for the assessment and collection of taxes, one half thereof to be applied solely and exclusively for Territorial purposes, one fourth in like manner for county purposes, and
176 the remaining one fourth to be applied to school purposes."

Section 7 of Chapter 1 of the session laws of 1876 (section 657, Compiled Laws of 1897) provides: "When a judgment shall be rendered against any board of county commissioners or against any county officer in an action prosecuted by or against him in his official name, where the same shall be paid by the county, no execution shall issue upon such judgment, but the same shall be levied, and paid by taxes as other county taxes, and when so collected, shall be paid by the county treasurer, to the person to whom the same shall be adjudged, upon the delivery of the proper voucher thereof." Paragraph 10 of section 14 of said act provides, " * * * in no event shall the said commissioners levy any assessment of taxes exceeding one per cent." Section 6 of chapter 62 of the session laws of 1882, provides, "There shall be levied and assessed upon the taxable property within this territory in each year, the following taxes: For Territorial revenue, one half of one percent: For ordinary county revenue, one fourth of one percent: For maintenance and support of Public schools one fourth of one percent." Section 2 of chapter 68 of the laws of 1889 provides, among other things, "that if at any time the taxes collected during any year shall not be sufficient to meet current expenses of such county, for the succeeding year, then it shall be lawful at the next annual levy of taxes for the said county commissioners of said County, to make an additional levy not to exceed one half of one mill on each dollar of taxable property in such county, for the purpose of making up such deficit in the current expenses of such county."

These are all the provisions of the statutes governing the levy of taxes during the time involved in this case. It will be observed that section one of chapter two of the session laws of 1874, and section 6 of chapter 62 session laws of 1882, limit the levy for *county purposes* to one fourth of one percent. Paragraph ten of section 14 of Chapter 1 of the session laws of 1876, restricts the levy to not to exceed one percent, but is silent as to the one fourth of one percent, *for county current expenses*. As these acts are not in conflict with each other, all most stand. Therefore for county current expenses only one fourth of one percent referred to in such statutes, could be levied for county current expenses. Section 2 of Chapter 68 of the Laws of 1889, provides that an additional levy not to exceed one half of one mill may be made for the purpose of making up a deficit of the previous year, hence, for county current expenses, there could be a levy of only two and one half mills, plus one half of one mill in case of a deficit, any levy beyond this would be without authority of law, and we think it well settled, if *no authority of law* to make a levy there is *no legal tax*. Dillion on Municipal Corporations, p. 605; County Commissioners v. King, 67 Fed. 207. Neither public necessity nor public luxury is sufficient authority to make a levy of taxes, A tax is a forced contribution, and can only be sustained on the theory of good government. If what we have said concerning the authority, or, rather, limited authority, of the county commissioners to levy taxes, is true, was it possible for said county commissioners to create an indebtedness for county current expenses in excess of money raised by the Authorized levy, to wit, three mills, and then have this evidence of indebtedness, transformed into another form of evidence of indebtedness, namely, that of a judgment, and then resort to said chapter 1 Section 7 of the session laws of 1876 (Section 657 Compiled Laws, 1897) and make a special levy over and above the authorized levy for county current expenses for the purposes of paying such judgment? We think not. If they can, all the provisions and attempted restrictions by statute, extending over many years of county commissioners to levy taxes must stand for naught; or, in other words, they can levy two and one half mills, plus one half of a mill or as much more as they please by transforming the items of county current expenses. The Judgment is only the evidence of an indebtedness against the county brought into being by a transformation of the original evidence of indebtedness, whether it was in the form of a warrant, and allowed a bill rendered for services performed for the county, the keeping of prisoners or any other form of evidence of indebtedness for county current expenses. Of course the judgment thus rendered is an unquestionable evidence of indebtedness so far as any collateral attack upon such judgment is concerned. In our opinion the judgment creditors stands in the same position as any other creditor so far as the enforcement of his claim is concerned. He can recover and secure a satisfaction of a judgment through the channel of the statute and in no other way,

and the current expenses of the county have exceeded two and one half mills, and one half of one mill for a deficit, and the claim is against the county for county current expenses in excess of the authorized levy, then there is no legal remedy for the collection of such a judgment. These statutes are neither intricate nor ambiguous to construe them, need neither president nor authority; all that is required is to give common meaning to common language. Defendant in error contends that no inquiry can be made concerning the judgments against the county, or the indebtedness for which the judgments were rendered. As we have said before, if that position is tenable, then all attempted legislation to restrict county commissioners in the amount of levy of taxes for county current expenses, is in conflict with this view of the law, and either said section 7 of chapter 1 of the session laws of 1876 must stand and the others fall, or we must construe all these statutes together, in the manner, as we have attempted hereinbefore to do. It must be understood that plaintiffs in error do not attack the judgments of defendant in error, but only the means of enforcing payment of them; so it is not a collateral attack nor any other attack upon the judgments. We are of the opinion that plaintiffs in error can inquire into the cause of action upon which the judgments were rendered, and if it

179 is found that the indebtedness for which said judgments were rendered was for county current expenses of said county, then no levy could have been made by the county Commissioners for the payment of such judgment, except such as is provided in the 2 and one half mills regular levy, and the one half of one mill levy for the purpose of making up a deficit. *Lake County vs. Rollins*, 130 U. S. 662; *Rolls County Court vs. United States* 105 U. S., 733; *United States vs. Macon, Co.* 99 U. S. 582; *G. I. & N. W. R. R. Co. vs. Macon, etc.* 45 Pac. Rep. 494; *Supervisors vs. U. S.* 18 Wall., 71; *Knox Co. vs. 9th National Bank*, 147 U. S. 91. In *Rolls Co. vs. U. S. supra*, the law authorized the issue of bonds by Rolls county to pay for stock subscriptions for a railroad Company and to take proper steps to protect the interests and credit of the county, the bonds were issued with interest coupons. There was a suit upon some of the coupons, and judgment was rendered thereon, there was a writ of Mandamus to require the county court of said county to levy a tax for the payment of this judgment, there was a defence that there was no express statute for levying a tax to pay the judgment. These positions seems to be admitted, the court however, among other things said: "*While the coupons are merged in the judgment, they carried with them into the judgment all the remedies which in law form a part of their contract obligations, and these remedies, may still be enforced in all proper ways, notwithstanding the change in the form of the debt.*" Approved in *Rolls County Court vs. U. S.*, 154 U. S. 675. If there is no provision of law for a levy of tax to pay the judgment, but there is such a provision to levy a tax for the payment of the indebtedness on which a judgment was obtained, and if we may inquire into such judgment to the ex-

tent of ascertaining the indebtedness for which the judgment was rendered, for the purpose of showing that the original indebtedness was one within the pervue of the law, for which a levy could be made for the payment thereof, and thus enforce the payment
 180 of the judgment, then would it not be equally as well founded in principle that we may inquire into the original indebtedness upon which the judgment was rendered for the purpose of *whosing* that the county commissioners had *no authority* of law to *create such indebtedness* on which judgment was rendered nor to levy a special tax for the payment of such indebtedness? If no authority existed to make a levy to pay such original claim, then it follows that there was no authority to make a levy to pay the judgment. In *United States vs. County of Macon*, 99 U. S., 591, Mr. Chief Justice Waite, speaking for the court, says, we have not been referred to any statute which gives a *judgment creditor, any right to a levy of taxes which he did not have before the judgment*. The judgment has the effect of the judicial determination of the validity of his demand, and the amount that is due, *but it gives him no new rights in respect to the means of payment*. This principle was reaffirmed upon the authority of this case in *U. S. vs. Co. of Macon*, 144 U. S. 568; See also Rose's notes on U. S. Rep. Vo. p. 749. This disposes of this branch of the case. So far as rendering judgment against the Plaintiff in error, upon said judgments against said county by the trial court, the case is hereby reversed, *Trust Co. vs. Territory, supra*, may have mislead the trial court in this case.

Defendant in error relies upon the *United States Trust Company vs. Territory*, 10 N. M. p. 416; (62 Pac. Rep. 987. On first blush it would seem that *Trust Company vs. Territory, supra*, would be in harmony with the contention of the defendant in error, but by a close and careful examination of that case, it would be observed that the court says: "For just what county expenses they (county war-rants) were issued, does not appear. It may have been for keeping prisoners in jail. * * *." The pleadings in that case did not show that the items upon which the judgment was rendered were for county current expenses. The court could not pass upon the question of whether or not you could go behind the judgment to ascertain on what the judgment was rendered, such question
 181 not being before the court. In that case the learned Judge said. "These claims not having merged into judgment, are not subject to collateral attacks in proceedings brought to enforce the payment of tax levies, and in proceedings, such as this it is improper for the court to go behind the judgment to ascertain upon what it was based for the purpose of preventing its payment," which proposition was correct under the issues raised *in that case*. The learned Judge may have been a little unfortunate in using the language above quoted, that question not being raised by the pleadings so far as the case of *Trust Company vs. Territory, supra*, is, if at all, in conflict with this opinion, the same is hereby overruled.

The item of \$276.21, arising of account of a raise in the valuation

of the property of plaintiff in error, by the said board of County Commissioners, is not contested. Therefore it is ordered that defendant in error have and recover judgment in this court for said sum of \$276.21 with interest and costs.

BENJAMIN S. BAKER,
Associate Justice.

We Concur:

JOHN R. McFIE, A. J.

I concur in the result.

WILLIAM J. MILLS, C. J.

182 TERRITORY OF NEW MEXICO, } ss:
 Supreme Court, }

I, the undersigned, clerk of the Supreme Court of the Territory of New Mexico, do hereby certify that the above and foregoing one hundred and eighty one pages, contain a true, full and correct transcript of the, record and proceedings, pleadings and opinion filed in the above entitled causes, which is transmitted to the Supreme Court of the United States of America, in accordance with an appeal herein granted by the Supreme Court of the Territory of New Mexico.

Witness my hand and the seal of the Supreme Court of the Territory of New Mexico, this the 19th day of January, A. D., 1905.

[Seal Supreme Court, Territory of New Mexico.]

JOSE D. SENA,
Clerk Supreme Court of N. M.

Endorsed on cover: File No. 19,637. New Mexico Territory supreme court. Term No. 182. The Territory of New Mexico, appellant, vs. The Atchison, Topeka & Santa Fe Railway Company, The Rio Grande, Mexico & Pacific Railroad Company and The Silver City, Deming & Pacific Railroad Company. Filed February 20th, 1905. File No. 19,637.